



**CITY OF BATTLE CREEK**  
COMMUNITY SERVICES DEPARTMENT – PLANNING and ZONING

**AGENDA**  
**PLANNING COMMISSION MEETING**

**Date:** Wednesday, August 28, 2019  
**Time:** 4:00 P.M.  
**Place:** City Commission Chambers  
Room 301, City Hall

1. **Call to Order**
2. **Attendance**
3. **Additions or Deletions to the Agenda**
4. **Approval of Minutes – July 24, 2019 meeting minutes**
5. **Correspondence**
6. **Public Hearings/Deliberations:**
  - A. **#A-01-19 Ordinance Adoption - Adult Use (Recreational) Marihuana Facilities:**  
Review and adoption of a package of zoning ordinance amendments that will permit by right the following Adult Use Marihuana establishments: Grower and Processor, Secure Transporter, Safety Compliance Facility, Retailer, and Microbusinesses.
7. **Old Business**
8. **New Business:**
9. **Comments by the Public**
10. **Comments by the Staff and Commission Members**
11. **Adjournment**

Respectfully Submitted,  
Christine M. Zuzga, AICP  
Executive Secretary, Planning Commission

**BATTLE CREEK PLANNING COMMISSION  
MEETING MINUTES  
Wednesday, July 24, 2019**

**1. Call to Order:**

Planning Manager, Christine Zuzga called the meeting to order 4:02 p.m. As both Chairperson Daniel Buscher and Vice Chairperson Jim Hopkins were absent it was necessary to appoint an interim Chairperson. Motion made by Commissioner Baldwin and seconded by Commissioner Stetler to appoint Commissioner John Godfrey. All in favor 5-0 of Commissioner Godfrey serving as interim Chairperson for today's meeting.

**2. Attendance:**

**Members Present:**

John Godfrey	Joe Sobieralski
John Stetler	Susan Baldwin
Robert Whitfield	

**Members Excused:**

Daniel Buscher	Lynn Ward Gray
Jim Hopkins	Cody Newman

**Staff Present:** Christine Zuzga, Planning Manager, Planning Dept.  
Marcel Stoetzel, Deputy City Attorney  
Glenn Perian, Senior Planner, Planning Dept.  
Eric Feldt, Planner  
Michele K. Jayakar, Customer Service, Planning Dept.

**3. Additions or Deletions to the Agenda:**

**4. Approval of Minutes: Meeting Minutes April 24, 2019**

**MOTION WAS MADE BY COMMISSIONER SOBIERALSKI AND SUPPORTED BY COMMISSIONER STETLER, TO APPROVE THE PLANNING COMMISSION MEETING MINUTES FOR APRIL 24, 2019. ALL IN FAVOR 5-0, NONE OPPOSED.**

**5. Correspondence:**

**6. Public Hearings and Deliberation/Recommendations:**

- A) **#Z-02-19: Petition from Mr. Jeffrey Bean, Urbandale LLC., property owner Urbandale Plaza, 1525 W. Michigan Ave., requesting a rezoning from the C-5 Planned Shopping District to the C-3 Intensive Business District.**

**Comments by the Staff and Commission Members:**

Planning Manager Zuzga stated the findings in the staff report support approval for Z-02-19 as changing its use to C-3 Intensive Business District conforms to the future use map in the master plan, including adjusting of land use regulations to match the changing character and community needs. The parcel is located in C-5, Planned Shopping District. There is only one other area in the city zoned C-5, located at Dickman Rd. and Riverside Dr.

**A MOTION WAS MADE BY COMMISSIONER BALDWIN, SECONDED BY COMMISSIONER SOBIERALSKI, TO APPROVE THE REZONING REQUEST Z-02-19 FOR 1525 W. MICHIGAN AVE. FROM C-5 PLANNED SHOPPING DISTRICT TO C-3 INTENSIVE BUSINESS DISTRICT BASED ON THE FINDINGS OUTLINED IN THE STAFF REPORT. MOTION CARRIED, 5-0.**

**New Business:**

**A. Zoning Ordinance/Map Update:**

Glenn Perian, Senior Planner, stated that on August 7<sup>th</sup> there will be a kick off with McKenna, who is the consulting firm who will be working with staff on the Zoning Ordinance/Map update. On August 28<sup>th</sup> there will be a second technical committee meeting.

**B. Non-Motorized Transportation Plan Update:**

Eric Feldt, planner, stated there was a positive/informative public survey for the non-motorized transportation plan. Planning is currently working on analyzing the data and adding it to the GIS. Eric asked members of the Planning Commission to join the Advisory Committee working on the non-motorized transportation plan which will meet 2-3 times over the next couple months for a maximum of 2 hours per meeting.

**C. Recreational Marihuana:**

Eric Feldt, planner, stated that the City Commission did ask for the City Attorney and the Planning Dept. to draft an ordinance to opt-in to Adult Use Marihuana. On November 1<sup>st</sup> the State will issue Recreational

Marihuana licenses. The business side of Recreational Marihuana will be similar to medical with specific land uses but will also have special licenses available at the State level. At this time the City is considering opting in only for the establishments. A draft ordinance will be submitted at the August Planning Commission meeting for consideration.

*Interim Chairperson Godfrey asked if there were any other questions or comments.*

Interim Chairperson Godfrey asked the Planning Dept. to add the North symbol at the top of the maps for reference.

Interim Chairperson Godfrey thanked the commission for his one-time appointment.

**Adjournment:** Interim Chairperson Godfrey adjourned today's meeting. All in favor, meeting adjourned at 4:47 P.M.

Respectfully Submitted: Christine Zuzga, Planning Manager, Planning Dept.



## **Battle Creek City Planning Commission**

### **Staff memo for the August 28, 2017 meeting**

To: Planning Commissioners

From: Eric Feldt, AICP, CFM Planner

Subject: Draft Zoning Ordinance - Recreational Marihuana Facilities

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#### **Summary**

Review and adopt a new zoning ordinance to permit and regulate recreational marihuana facilities pursuant to the Michigan Recreational Taxation of Marihuana Act (MRTMA) of 2018, Adult-Use Marihuana Establishment Emergency Rules, and subsequent amendments. Although this memorandum primarily pertains to land use and zoning capacities, other informative items of the MRTMA or other rules may be provided for further understanding or clarity of this new recreational marihuana industry. A new City license for recreational marihuana will be created to address licensing processes, application requirements, fees, etc. The license would not exist in the land use code, and therefore, is not addressed in the subject memorandum. It would, however, be discussed for City Commission review and approval in tandem with the subject draft ordinance.

#### **Background**

##### **Michigan Medical Marihuana Act (MMMA)**

In 2008, the State of Michigan legalized medical marihuana for only state-approved caregivers and patients (Michigan Medical Marihuana Act (MMMA) of 2008). This allows caregivers and patients to grow medical marihuana at their residence. Patients could grow up to 12 plants for themselves only. Caregivers could grow 12 marihuana plants for each patient, up to five patients for a total of 60 plants. The caregiver could also be a patient. The maximum permitted plants to be grown by a caregiver, if also a patient, is 72 plants.

##### **Medical Marihuana Facilities Licensing Act (MMFLA)**

In 2017, the State passed the Medical Marihuana Facilities Licensing Act (MMFLA) to allow new licensed businesses to 1) grow, 2) process, 3) test (safety compliance facility), 4) transport (secure transporter), and 5) sell (Provisioning Center) medical marihuana to only state-approved caregivers and patients. The MMMA legislation continued to remain active. Under the MMFLA,

the State would issue licenses to new marihuana-related businesses. Local municipalities were allowed to prohibit any or all MMFLA businesses. As of the date of this memorandum, approximately 120 municipalities (including City of Battle Creek) have allowed a certain number of MMFLA businesses. The City of Battle Creek determined to allow all five MMFLA businesses types after receiving support from the community and policymakers.

As of the date of this memorandum, there are two licensed and open MMFLA Provisioning Centers, plus another +20 other MMFLA businesses (mix of growers and processors) holding City permits but not yet licensed or open. Several nearby communities have also permitted MMFLA businesses, such as Marshall, Emmett Township, Kalamazoo, and Portage.

### Michigan Recreational Taxation of Marihuana Act (MRTMA)

In November of 2018, the Michigan Recreational Taxation of Marihuana Act (MRTMA) was approved by a voter-initiated state-wide ballot under Proposal 18-1 that decriminalized recreational marihuana, provides for lawful growing and selling recreational marihuana and hemp by and for those 21 years of age and older, permit the taxation of revenue from recreational marihuana businesses, and provided regulations and penalties of this Act. Within the City of Battle Creek, the voting results were 10,227 support (60% total) and 6,653 against (40% total); and within Calhoun County were 27,991 (56% total) support 21,771 (44% total) against.

In early July of 2019, the State's Marihuana Regulatory Agency established new emergency rules to implement the MRTMA, safeguard the health, safety, and welfare of those 21 years of age and older. These emergency rules and new legislation are provided at this link:

[https://www.michigan.gov/lara/0,4601,7-154-89334\\_79571\\_90056---,00.html](https://www.michigan.gov/lara/0,4601,7-154-89334_79571_90056---,00.html)

Both Proposal 18-1 and the emergency rules provide the overall procedures, limitations, penalties, regulatory-capacity of recreational marihuana for businesses, local municipalities, individuals, law enforcement, and various administrative processes. The MMA and MMFLA continue to remain in effect. Staff has provided a quick comparison document (see attached excel document). There are many similarities in regulations, terminology, etc. between MMFLA and MRTMA licenses.

The MRTMA legalizes two main aspects of adult use (recreational) marihuana: 1) personal use (adult use) of recreational marihuana, and 2) adult use (recreational) marihuana establishments to allow the growing, processing, testing, transporting, and selling of adult use marihuana to those 21 years of age and older.

### **1. Personal use (adult use) of recreational marihuana**

Allows a person whom is 21 years of age and older to legally carry, grow, and consume recreational marihuana. This is similar brought more unrestricted as compared to the MMA. Personal use recreational marihuana may be gifted (not for financial gain) between people whom are 21 years of age and older. Each resident meeting the age eligibility is allowed to grow up to 12 recreational marihuana plants at their residence. The grow area must be within an enclosed area (inside or outside), locked, and not readily visible from public places. The State has set maximum limits on weight/ size of marihuana that can be consumed, carried, transported, etc. Local municipalities cannot further restrict these State allowances.

## **2. Adult Use (Recreational) Establishments authorized by the MRTMA & Recommended zoning regulations**

The following section summarizes the new businesses that can be conducted for recreational marihuana under the MRTMA and related Emergency Rules adopted July 3<sup>rd</sup>, 2019.

The MRTMA establishes the following new Adult Use (recreational) marihuana establishment licenses:

- 1) Grower
- 2) Processor
- 3) Safety Compliance Facility
- 4) Secure Transporter
- 5) Retailer
- 6) Microbusiness
- 7) Special Licenses:
  - Designated Consumption Establishment;
  - Excess Marihuana Grower;
  - Marihuana Event Organizer; and
  - Temporary Event License.

Each of these licenses are explained below by corresponding number.

### **1) Adult Use Marihuana Grower** (See ‘Grower & Processor Map’ for proposed permitted locations.)

Pursuant to MRTMA, a Grower can cultivate, dry, trims, or cures and packages marihuana for sale to a Processor or Retailer. A Grow license may consist of one or more of the following grow size operations: Class A: growing up to 100 plants; Class B: growing up to 500 plants; and Class C: growing up to 2,000 plants. A grower may choose multiple class types.

The MRTMA locational restrictions indicate that all recreational marihuana businesses 1) must be located at least 1,000 feet away from a pre-existing public or private school providing education to any K-12 grade level, unless the local municipality reduces this distance; 2) shall not be located in a zoning district exclusively for residential use; and 3) grower licensed businesses may only operate on property zoned for Industrial or Agricultural uses.

Staff does not see any land use differences between growing recreational and medical marihuana. Therefore, staff recommends utilizing the same restrictions as medical marihuana grower: limiting to the I-1 & I-2 Industrial zoning districts; located at least 1,000 feet away from churches, residentially-zoned districts, and public parks; and be located entirely inside a building having a permanent foundation, walls, and roof. Further, the building area containing the grow operation must be enclosed by walls consisting of a structurally-supportive load bearing brick or masonry construction from grade up to eight feet in height. A transparent roof member (e.g. glass) may be allowed to provide sunlight in growing areas, but must be entirely covered at night.

There was discussion during the medical marihuana ordinance in 2017 about allowing Growers in the city's Agricultural district. The city chose not to because it would not meet the purpose of the Agriculture district which is to primarily dedicate land for open-air farming, livestock, and field crops. Also, their relatively remote agriculture properties do not have the city utilities that would likely be needed for intense growing of marihuana. And those remote locations may have slow public safety response times.

Table 1 below provides a quick comparison between the City's existing Medical Marihuana Grower regulations and staff's proposed Adult Use (recreational) Marihuana Grower restrictions.

<b>TABLE 1.</b>		<b>Existing City Medical Grow Regulations</b>	<b>City Proposed Regulations</b>
<b>Zoning Code Chapters</b>		Ch. 1299, Ch. 1272, & Ch. 1274	
<b>Allowed Zoning Districts</b>		I-1 & I-2	Same
<b>Setback from sensitive uses</b>		Yes	Same
	<b>From Churches</b>	Yes, 1,000 ft	Same
	<b>From Residential Zones</b>	Yes, 1,000 ft	Same
	<b>From Libraries</b>	Yes, 1,000 ft	Same
	<b>From Residential Uses</b>	No	Same
	<b>From Parks</b>	Yes, 1,000 ft	Same
	<b>From Schools</b>	Yes, 1,000 ft	Same
<b>Building design regulations</b>		Yes	Same
	<b>Must be inside buildings w/ permanent walls, roof, &amp; foundation</b>	Yes	Same
	<b>Must have masonry walls</b>	Yes	Same
	<b>Green houses prohibited</b>	Yes	Same



**2) Adult Use Marihuana Processors** (See ‘Grower & Processor Map’ for proposed permitted locations.)

According to the MRTMA, a processor purchases marihuana from a grower or another processor and extracts resin from the marihuana or creates a marihuana-infused product for sale and transfer in packaged form to a Retailer or another Processor. Again, the MRTMA requires all recreational marihuana businesses 1) must be located at least 1,000 feet away from a pre-existing public or private school provide education to any K-12 grade level, unless the local municipality reduces this distance; and 2) shall not be located in a zoning district exclusively for residential use.

Staff does not see any land use differences between processing recreational and medical marihuana. Therefore, staff recommends utilizing the same restrictions as medical marihuana processor. Table 2 below provides a quick comparison between the City’s existing Medical Marihuana Processor regulations and staff’s proposed Adult Use (recreational) Marihuana Processor restrictions.

<b>Table 2.</b>		<b>Existing City Medical Processing Regulations</b>	<b>City Proposed Regulations</b>
<b>Zoning Code Chapters</b>		Ch. 1299, Ch. 1272, & Ch. 1274	
<b>Allowed Zoning Districts</b>		I-1 & I-2	Same
<b>Setback from sensitive uses</b>		Yes	Same
	<b>From Churches</b>	Yes, 1,000 ft	Same
	<b>From Residential Zones</b>	Yes, 1,000 ft	Same
	<b>From Libraries</b>	Yes, 1,000 ft	Same
	<b>From Residential Uses</b>	No	Same
	<b>From Parks</b>	Yes, 1,000 ft	Same
	<b>From Schools</b>	Yes, 1,000 ft	Same
<b>Building design regulations</b>		Yes	Same
	<b>Must be inside buildings w/ permanent walls, roof, &amp; foundation</b>	Yes	Same

**3) Adult Use Marihuana Safety Compliance Facility (Testing)** (See ‘Safety Compliance Facility Map’ for proposed permitted locations.)

Pursuant to the MRTMA, a Safety Compliance Facility receives, tests, and returns marihuana from a licensed grower, processor, microbusiness, or retailer to ensure it is free of known contaminants; determine levels of concentration of THC, CBD, etc.; and inventories all tests and resulting information. Pursuant to the MRTMA, a Safety Compliance Facility cannot have an interest in a state licensed Grower, Processor, or Retailer. This is likely to reduce the possibility of skewing favorable testing results or unlawfully benefitting a specific operation/ company.

Again, the MRTMA requires all recreational marihuana businesses 1) must be located at least 1,000 feet away from a pre-existing public or private school provide education to any K-12 grade level, unless the local municipality reduces this distance; and 2) shall not be located in a zoning district exclusively for residential use. Staff does not see any land use differences between testing recreational or medical marihuana. Therefore, staff recommends utilizing the same restrictions as medical marihuana safety compliance facilities. Table 3 below provides a quick comparison between the City’s existing Medical Marihuana Safety Compliance Facility regulations and staff’s proposed Adult Use (recreational) Marihuana Safety Compliance Facility restrictions.

<b>Table 3.</b>		<b>Existing City Medical Safety Compliance Facility Regulations</b>	<b>City Proposed Regulations</b>
<b>Zoning Code Chapters</b>		Ch. 1264, Ch. 1266, Ch 1272, Ch 1274, & Ch. 1299	
<b>Allowed Zoning Districts</b>		I-1, I-2, C-3, & C,-4	Same
<b>Setback from sensitive uses</b>		Yes	Same
	<b>From Churches</b>	Yes, 1,000 ft	Same
	<b>From Residential Zones</b>	Yes, 1,000 ft	Same
	<b>From Libraries</b>	Yes, 1,000 ft	Same
	<b>From Residential Uses</b>	No	Same
	<b>From Parks</b>	Yes, 1,000 ft	Same
	<b>From Schools</b>	Yes, 1,000 ft	Same
<b>Building design regulations</b>		Yes	Same
	<b>Must be inside buildings w/ permanent walls, roof, &amp; foundation</b>	Yes	Same

**4) Adult Use Marihuana Secure Transporters (Transportation & Storage)** (See ‘Secure Transporters Map’ for proposed permitted locations.)

Pursuant to the MRTMA, a Secure Transporter transports marihuana between marihuana facilities for a fee and may store marihuana and cash. The Secure Transporter must submit a dedicated driving route and plan to the State. The vehicle used by the transporter must have two people in the vehicle, both of whom must have chauffeur’s license. The transporter may travel through any municipality, including any that prohibit this license type. Despite, the transporter conducting little to no business out of a physical building, the transporter must identify a physical location within local a municipality with the State for licensing purposes. The vehicle may not bear markings or other indication that it is carrying marihuana or marihuana-infused product.

Again, the MRTMA requires all recreational marihuana businesses 1) must be located at least 1,000 feet away from a pre-existing public or private school provide education to any K-12 grade level, unless the local municipality reduces this distance; 2) shall not be located in a zoning district exclusively for residential use. It is not clear if the transporter’s vehicle may use streets that violate above school set back restrictions.

Staff does not see any land use difference between transporting medical and recreational marihuana. Therefore, staff recommends utilizing the same restrictions as medical marihuana

<b>Table 4.</b>		<b>Existing City Medical Secure Transport Regulations</b>	<b>City Proposed Regulations</b>
<b>Zoning Code Chapters</b>		Ch. 1264, Ch 1272, Ch 1274, & Ch. 1299	
<b>Allowed Zoning Districts</b>		I-1, I-2, & C-3	Same
<b>Setback from sensitive uses</b>		Yes	Same
	<b>From Churches</b>	Yes, 1,000 ft	Same
	<b>From Residential Zones</b>	Yes, 1,000 ft	Same
	<b>From Libraries</b>	Yes, 1,000 ft	Same
	<b>From Residential Uses</b>	No	Same
	<b>From Parks</b>	Yes, 1,000 ft	Same
	<b>From Schools</b>	Yes, 1,000 ft	Same
<b>Building design regulations</b>		Yes	Same
	<b>Must be inside buildings w/ permanent walls, roof, &amp; foundation</b>	Yes	Same

Secure Transporter. Table 4 above provides a quick comparison between the City’s existing Medical Marihuana Secure Transporter regulations and staff’s proposed Adult Use (recreational) Marihuana Safety Secure Transporter restrictions.

**5) Adult Use Marihuana Retailer (e.g. selling; dispensing)** (See ‘Marihuana Retailer Map’ for proposed permitted locations.)

According to the MRTMA, a Recreational Marihuana Retailer purchases or transfers marihuana from a Grower or Processor and sells or transfers to a person 21 years of age or older. The license holder may provide transactional sales on line, and may provide home delivery from the retailer store to the purchaser. Again, the MRTMA requires all recreational marihuana businesses 1) must be located at least 1,000 feet away from a pre-existing public or private school provide education to any K-12 grade level, unless the local municipality reduces this distance; and 2) shall not be located on a zoning district exclusively for residential use. Alcohol and tobacco cannot be served

<b>Table 5.</b>		<b>Existing City Medical Provisioning Center Regulations</b>	<b>City Proposed Regulations</b>
<b>Zoning Code Chapters</b>		Ch. 1262, Ch. 1264, Ch. 1266, Ch. 1268, Ch. 1270, Ch 1271, & Ch. 1299	
<b>Allowed Zoning Districts</b>		C-2, C-3, C-4, C-5, C-6, & C-7 [And I-1 & I-2 with limitations]	C-2, C-3, C-4, C-5, C-6, & C-7
<b>Setback from sensitive uses</b>		Yes	Same
	<b>From Churches</b>	No	Same
	<b>From Residential Zones</b>	No	Same
	<b>From Libraries</b>	Yes, 1,000 ft	Same
	<b>From Residential Uses</b>	No	Same
	<b>From Parks</b>	No	Same
	<b>From Schools</b>	Yes, 1,000 ft	Same
<b>Other Setbacks</b>		Yes	
	<b>From other Provisioning Centers, Microbusinesses, and Retailers</b>	Yes, 1,000 ft	Same
<b>Building design regulations</b>		Yes	Same
	<b>Must be inside buildings w/ permanent walls, roof, &amp; foundation</b>	Yes	Same

at a retailer. Sales will have an additional 10% tax, plus regular 6% state sales tax for a total of 16%. Lastly, Retailers may not sell edible marihuana-infused candy in shapes or packages that are attractive to children or that are easily confused with commercially sold candy that does not contain marihuana.

Staff does not see any land use differences between selling (Retailer) recreational and medical (provisioning center) marihuana except for in the Industrial districts. Per Ch. 1272.03 (s) & (t) and Ch. 1274.03 (b) and (c), Provisioning Centers are permitted in the I-1 & I-2 districts when 1) co-located with a medical marihuana grower and processor; and cannot exceed 10% of the overall size of the grower and processor building(s) area; 2) located in a retail use building as of the date of the ordinance (2-6-18). These additional zoning locations provides flexibility to enable additional business operation efficiencies; recognize that the provisioning center component is not likely to be expansive; and that the provisioning center size is insignificant compared to the overall site's growing and processing operations. Further, the act of selling marihuana as a provisioning center is categorized as a retail use, and therefore, taking over an existing retail use results in no change to the use of the property. This flexibility in the Industrial district has attracted only a few marihuana developers.

Staff finds differences in intensities between a medical marihuana provisioning center and adult use (Retailer) marihuana. The consumer market for a provisioning center is limited, while the adult use market is much more broad and predicted to be a high-demand use. A high intensity consumer retail use would generally not be consistent with the intent of the Industrial districts, which is to primarily facilitate large lot, scale intensity of manufacturing, processing, etc. of materials. Therefore, staff would not recommend Retailers in the Industrial districts. This is reflected in the ordinance. However, staff notes that as of the date of this memorandum there are active (and under review) permits for provisioning centers co-located with a marihuana grower and processor in Industrial districts. Staff recommends only those provisioning centers would be allowed to be converted to a Retailer. Staff further recommends ending this allowed conversion as of the effective date of this ordinance.

Staff recommends utilizing the same restrictions as medical marihuana provisioning centers except for in the Industrial districts. Table 5 above provides a quick comparison between the City's existing Medical Marihuana provisioning centers regulations and staff's proposed Adult Use (recreational) Marihuana Retailer restrictions.

**6) Adult Use Marihuana Microbusinesses** (See 'Marihuana Microbusiness' for proposed permitted locations)

According to the MRTMA, a Recreational Marihuana Microbusiness consist of a small grow, process, and retail operations. Whereby the microbusiness would be allowed to grow, process and package, & sell up to 150 recreational marihuana plants. Each of these operations must take place on the same property. The microbusiness license could be similar to a microbrewery concept. Again, the MRTMA requires all recreational marihuana businesses 1) must be located at least 1,000 feet away from a pre-existing public or private school provide education to any K-12 grade level, unless the local municipality reduces this distance; 2) must not be located on a zoning district exclusively for residential use. Alcohol and tobacco cannot be served at a microbusiness. Sales will have an additional 10% tax, plus regular 6% state sales tax for a total of 16%.

Staff recommends further restricting this license type by only allowing them only in the 1) C-2, C-3, C-4, and C-6 zoning districts; 2) must be located at least 1,000 feet from other Recreational Marihuana Microbusinesses, Medical Marihuana Provisioning Centers, and Recreational Marihuana Retailers; and 3) cannot abut a property that is either Residentially-zoned or contain a residential use. Those locational restrictions are recommended because those districts permit selling of marihuana through a Medical Marihuana Provisioning Center and Recreational Marihuana Retailer. Minor processing of non-marihuana products and materials inside buildings is currently a permitted use in those districts. The limitation of 150 plants deters the operations from becoming more 'industrial' in scale and intensity. Staff finds that the State does require growers and processing implement odor control measures to deter negative impacts onto adjacent properties. Therefore, the set back from residences will provide additional protection.

Below is a summary of proposed Recreational Marihuana Retailer regulations

**Proposed Recreational Marihuana Microbusiness regulations (City is more restrictive than State regulations):**

- Must be located on property zoned C-2, C-3, C-4, C-5, or C-6.
- Must be set back at least 1,000 feet away from Schools and Libraries.
- Must be set back at least 1,000 feet away from other microbusinesses, Retailers, and medical marihuana provisioning centers.
- Marihuana must be located inside fully-enclosed buildings having permanent roof, walls, and foundation.
- Must not be located on property that abuts a residentially-zoned property or property containing a residential use

## **7) Adult Use Special Licenses**

The City of Battle Creek is not considering any of these licenses at this time due the lack of adequate and reliable public safety measures, public education and research, and general knowledge of human effect and impact of consuming marihuana. Again, the MRTMA requires all recreational marihuana businesses 1) must be located at least 1,000 feet away from a pre-existing public or private school provide education to any K-12 grade level, unless the local municipality reduces this distance; and 2) shall not be located on a zoning district exclusively for residential use.

### **A. Designated Consumption Establishment**

Pursuant to the MRTMA, this permits a license-holder to allow the consumption of recreational marihuana by those 21 years of age and older in a commercial place. It is not clear if a Designated Consumption Establishment must be associated with any other type of recreational business. However, it is likely that a retailer and microbusiness would be inclined to pursue this license to enable a buy and consume option at their business.

Consuming marihuana through smoking may be permitted, however, the licensee must provide a non-smoking area for employees to monitor the consumption area.

Consumption areas that allow inhalation of consumed marihuana must contain a ventilation system that moves air from inside to the outside that removes visible smoke

and odors at the property line. The State's rules do not specifically prohibit outside consumption or smoking.

#### **B. Excess Marihuana Grower**

Pursuant to the MRTMA, allows a license-holder who holds at least five Recreational Marihuana Grow Class C licenses (10,000 plants total) and at least two Medical Marihuana Grow Class C (3,000 plants total). As noted earlier, a recreational marihuana grow businesses may only operate on property zoned for Industrial or Agricultural uses.

#### **C. Marihuana Event Organizer and D. Temporary Event License**

Pursuant to the MRTMA, a licensed event organizer is the entity that acquires another license to hold a temporary event for marihuana purposes. Recreational marihuana may be sold and consumed by those 21 years of age and older at an event. Designated consumption rules would apply. The selling of recreational marihuana is only permitted by a licensed recreational marihuana retailer or microbusiness. The temporary marihuana event license shall only be issued for a single day or up to seven consecutive days. It is not clear under the MRTMA, if consumption via inhalation (smoking or similar) is permitted or if ventilation in an outdoor or semi-enclosed setting is required. However, the MRTMA does require that all marihuana sales and consumption areas are not visible from any public place or non-age restricted area.

#### **Permit Process, Required**

Staff recommends utilizing the same permitting process as MMFLA developments. That process is provided below. An applicant seeking to development any recreational marihuana facility must obtain the following approvals in the order shown below:

##### **Step 1) State Prequalification Approval.**

The applicant submits and passes required background documentation to become prequalified with the State to then file a State application. Existing prequalified persons under the MMFLA may have an expedited review at this step. The State will start accepting adult use marihuana applications beginning November 1, 2019.

##### **Step 2) City Application; Conditional Approval.**

The applicant submits a complete an adult use (recreational) marihuana establishment application to obtain conditional approval from the City of Battle Creek. Gaining a Conditional Approval allows the applicant to submit permits in the next step.

##### **Step 3) City Permits.**

Within 90-days after receiving Conditional Approval, the applicant must file and gain an approved Site Plan Application and Building permit. By completing this step, the applicant has fulfilled the Conditional approval requirements and their marihuana application remains active. If this step is not completed within the 90-day deadline, the marihuana application is denied. The applicant may re-file a new application.

##### **Step 4) Physical Improvement**

The applicant builds/ improves site and receives, gains required inspections, and receives City Occupancy permits for new adult use (recreational) marihuana use.

##### **Step 5) State License.**

The applicant submits required documentation, fees, and receives an approved State inspection. State issues license. State licenses are active for only one year.

Step 6) City Permit; Final Approval.

The applicant files and gains approval of the City's Final Approval application and required documents, including a copy of the approved State license. City license is good for one year.

This proposed ordinance will amend the following sections of Chapter 12 *Planning & Zoning Code*:

- Ch. 1230 *General Provisions and Definitions*
- Ch. 1262 C-2 *General Business Districts*
- Ch. 1264 C-3 *Intensive Business Districts*
- Ch. 1270 C-6 *Major Highway Interchange Business Districts*
- Ch. 1271 C-7 *Street-Level Retail District*
- Ch. 1272 I-1 *Light Industrial District*
- Ch. 1274 I-2 *Heavy Industrial District*
- Ch. 1299 ~~Medical~~ ***Marihuana Facilities and Establishments (new title)***

### **Consistency with Adopted City Plans**

#### **Comprehensive Plan**

The 2018 City of Battle Creek Comprehensive Plan does not specifically address marihuana (medical or recreational), however, there are relevant goals and sections of the plan, as follows. On page 39, Goal 4 states "Revitalize commercial corridors as vibrant, successful business districts". Page 41 states Goal 7 "Improve the overall appearance of the community and inspire pride in Battle Creek." There are several vacant commercial storefronts and buildings across the community that have attracted many MMFLA medical marihuana businesses. The passing the proposed recreational marihuana ordinance would enable future marihuana businesses to occupy vacant buildings while not dominating the commercial industry. Enabling a diverse commercial environment in appropriate locations will help re-occupy vacant commercial buildings and lots. Therefore, the passing of this ordinance will help meet the Goals 4 & 7 of this Plan.

The land use plan and classifications (pages 49-61) within the Comprehensive Plan provide a direction for future rezones of land and overall guide of development. This land use plan, existing zoning districts, and existing land uses helped guide the existing MMFLA medical marihuana ordinance and the proposed MRTMA recreational marihuana regulations. Therefore, the proposed MRTMA recreational marihuana regulations are consistent with the land use plan.

Staff finds that the proposed MRTMA recreational marihuana regulations are consistent with the City of Battle Creek Comprehensive Plan.

#### **Other Community's Actions**

With the passing of the MRTMA Proposal 18-1, the State will begin issuing licenses to recreational marihuana businesses beginning November 1<sup>st</sup>, 2019 without requiring local municipality approval. The passing of this proposal, has automatically enrolled municipalities to allow for such businesses. Municipalities who desire to prohibit or wait later to allow such businesses must pass a prohibitive ordinance by November 1<sup>st</sup> 2019 to prevent the State from



issuing license for recreational businesses within their community. Because of this new fast growing industry with many unknowns, many municipalities are taking a precautionary approach and immediately prohibiting all recreational marihuana businesses. As of the date of this memorandum, over 500 municipalities have passed, or begun discussion towards, prohibitive ordinances (<https://www.detroitnews.com/story/news/local/michigan/2019/07/24/more-than-500-communities-opt-out-recreational-marijuana-sales-michigan/1755325001/>). Conversely, only a few municipalities began discussions to allow recreational marihuana businesses: Harrisville, Manistee, Chesaning, Lansing, and Lowell.

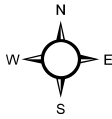
### **New Regulatory Tools**

In addition to the new State's rules for medical marihuana facilities, the City will adopt new zoning regulations (subject draft ordinance), new license ordinance for Adult Use (recreational) marihuana (Chapter 835), and new maps.

### **Next Steps**

Planning staff recommends the Planning Commission provide a favorable recommendation to the City Commission to approve the subject ordinance. With this support, staff will present the draft zoning ordinance and license ordinance to the City Commission in late September or early October for introduction and final vote before November 1<sup>st</sup>.

These maps are a representation of Ordinance 01-2018 for medical marihuana. There may be errors which inadvertently display a parcel in an allowed zone for permitting medical marihuana. Please consult the Planning Dept. of the City of Battle Creek for most accurate data.



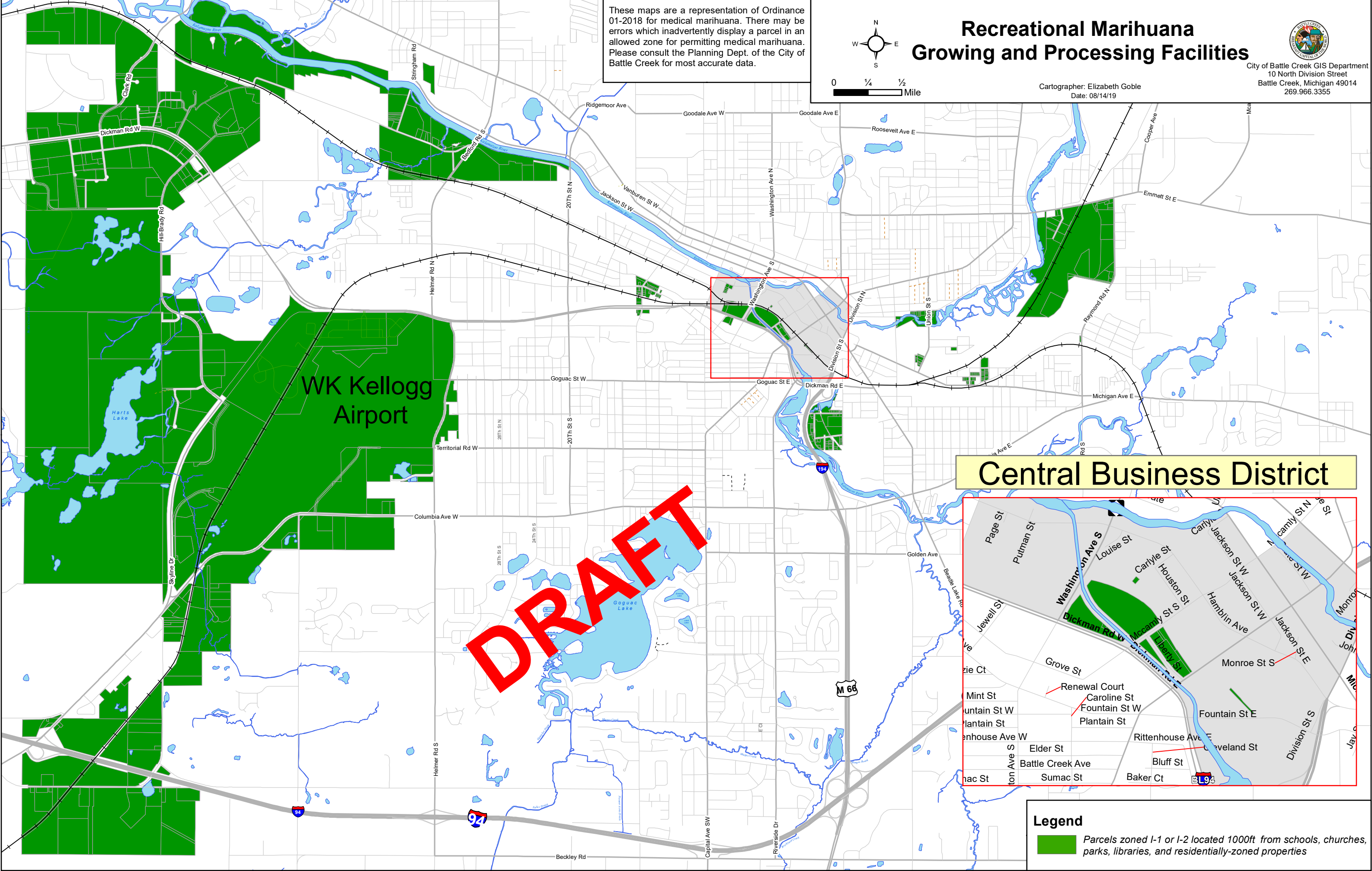
0 1/4 1/2 Mile

# Recreational Marihuana Growing and Processing Facilities

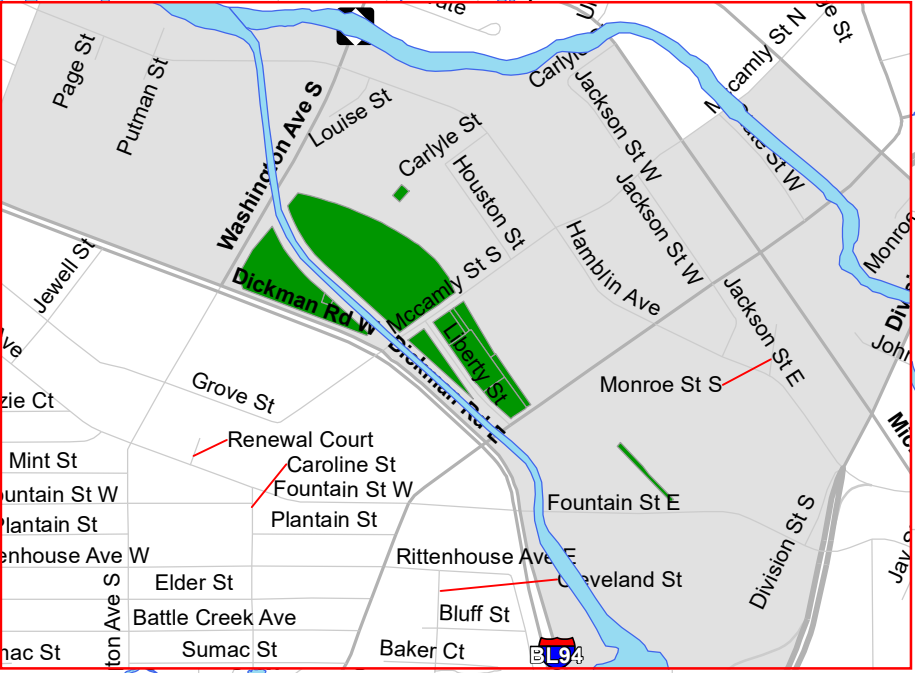
Cartographer: Elizabeth Goble  
Date: 08/14/19




City of Battle Creek GIS Department  
10 North Division Street  
Battle Creek, Michigan 49014  
269.966.3355



## Central Business District

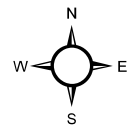


### Legend

 Parcels zoned I-1 or I-2 located 1000ft from schools, churches, parks, libraries, and residentially-zoned properties



These maps are a representation of Ordinance 01-2018 for medical marihuana. There may be errors which inadvertently display a parcel in an allowed zone for permitting medical marihuana. Please consult the Planning Dept. of the City of Battle Creek for most accurate data.



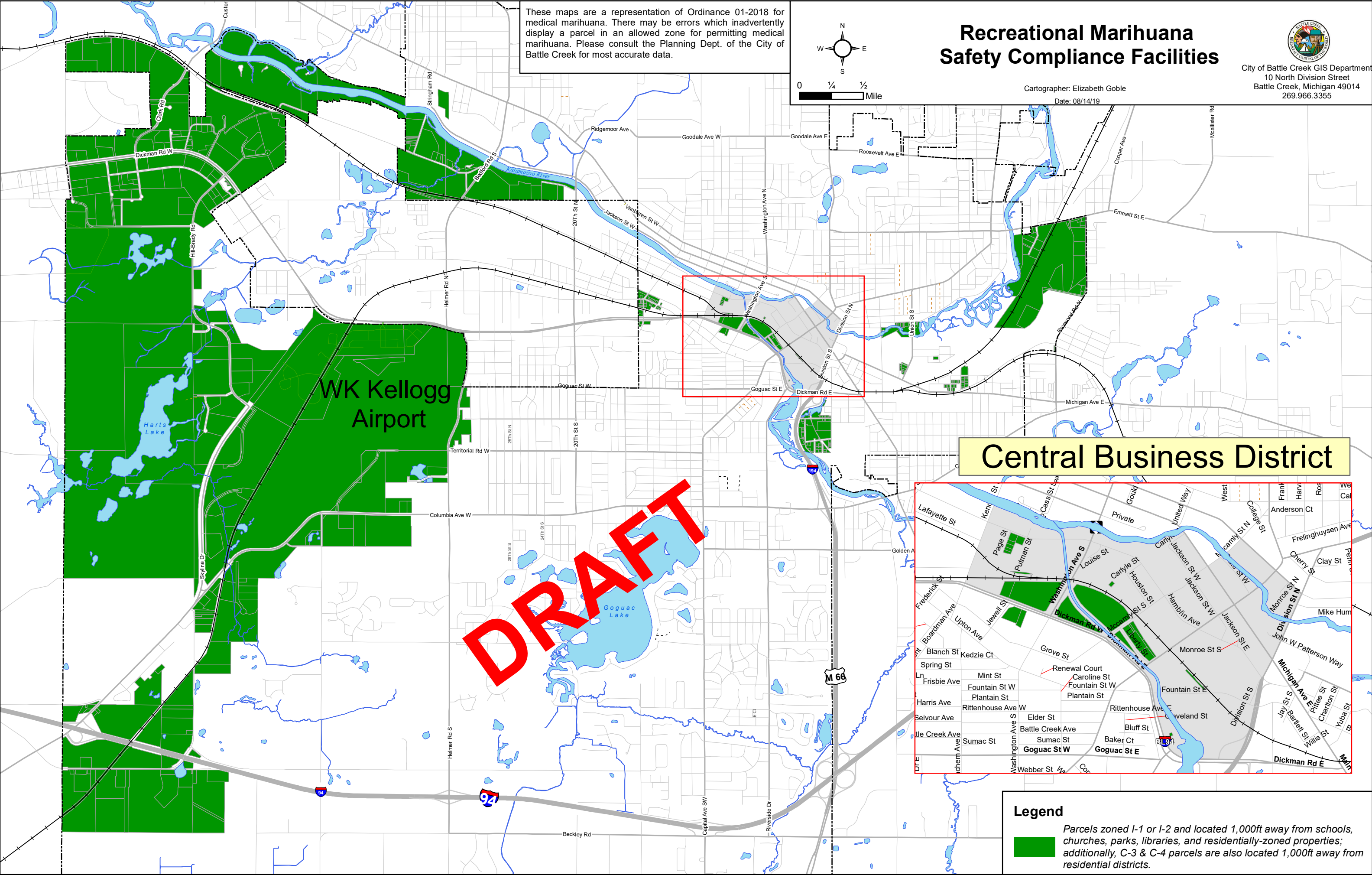
0 1/4 1/2 Mile

# Recreational Marihuana Safety Compliance Facilities

Cartographer: Elizabeth Goble  
Date: 08/14/19



City of Battle Creek GIS Department  
10 North Division Street  
Battle Creek, Michigan 49014  
269.966.3355



## Central Business District

### Legend

Parcels zoned I-1 or I-2 and located 1,000ft away from schools, churches, parks, libraries, and residentially-zoned properties; additionally, C-3 & C-4 parcels are also located 1,000ft away from residential districts.



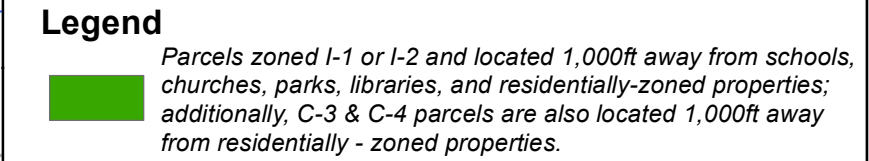
0 1/4 1/2  
Mile

## Recreational Marihuana Secure Transporter Facilities

Cartographer: Elizabeth Goble  
Date: 08/14/19



City of Battle Creek GIS Department  
10 North Division Street  
Battle Creek, Michigan 49014  
269.966.3355



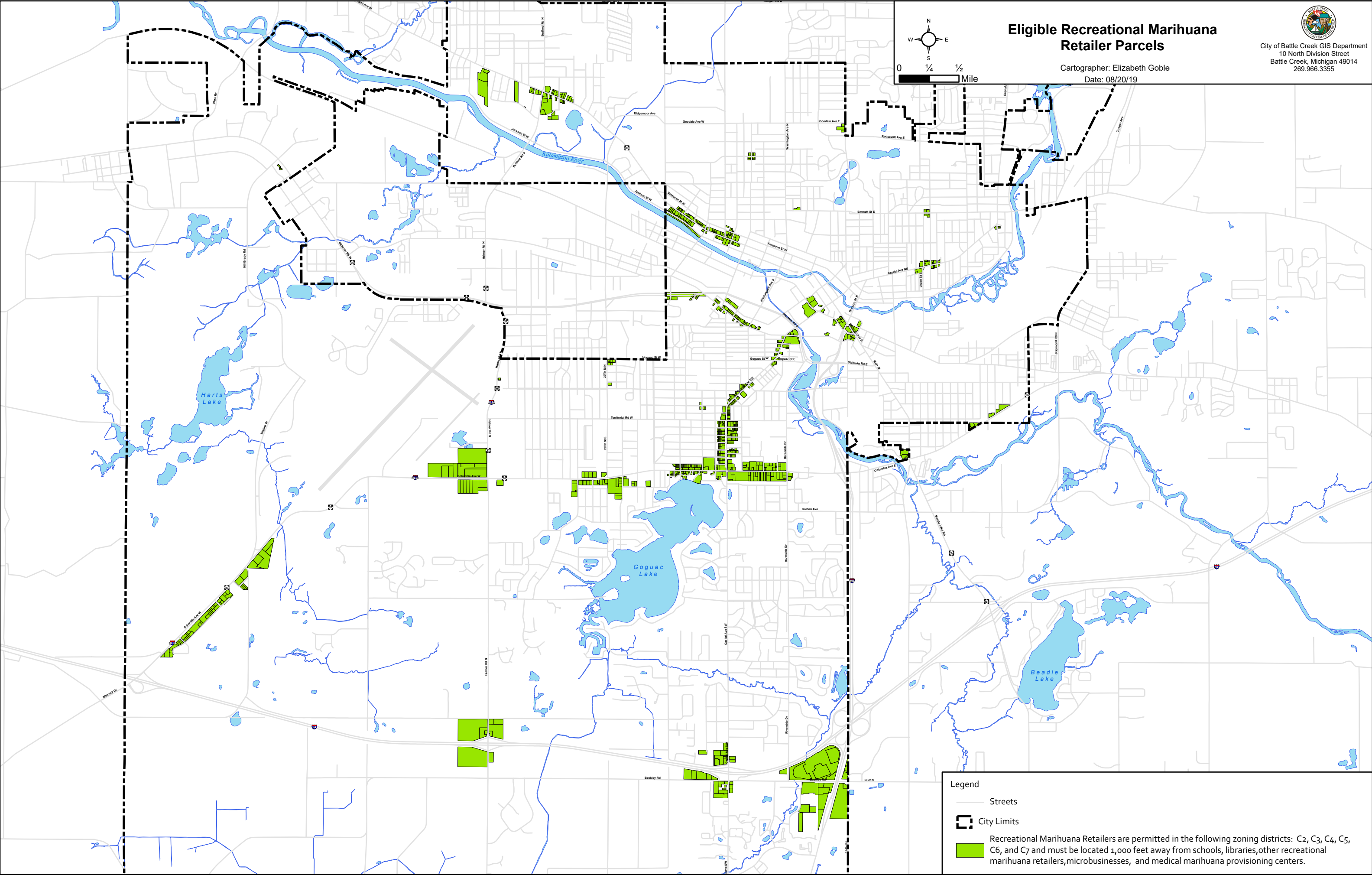
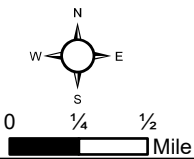




City of Battle Creek GIS Department  
10 North Division Street  
Battle Creek, Michigan 49014  
269.966.3355

# Eligible Recreational Marihuana Retailer Parcels

Cartographer: Elizabeth Goble  
Date: 08/20/19



Legend

Streets

City Limits

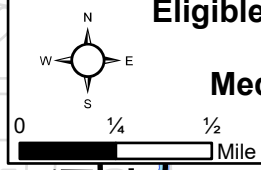
Recreational Marihuana Retailers are permitted in the following zoning districts: C2, C3, C4, C5, C6, and C7 and must be located 1,000 feet away from schools, libraries, other recreational marihuana retailers, microbusinesses, and medical marihuana provisioning centers.



# Eligible Recreational Marihuana Retailer Parcels 1,000 feet away from Medical Marihuana Provisioning Centers

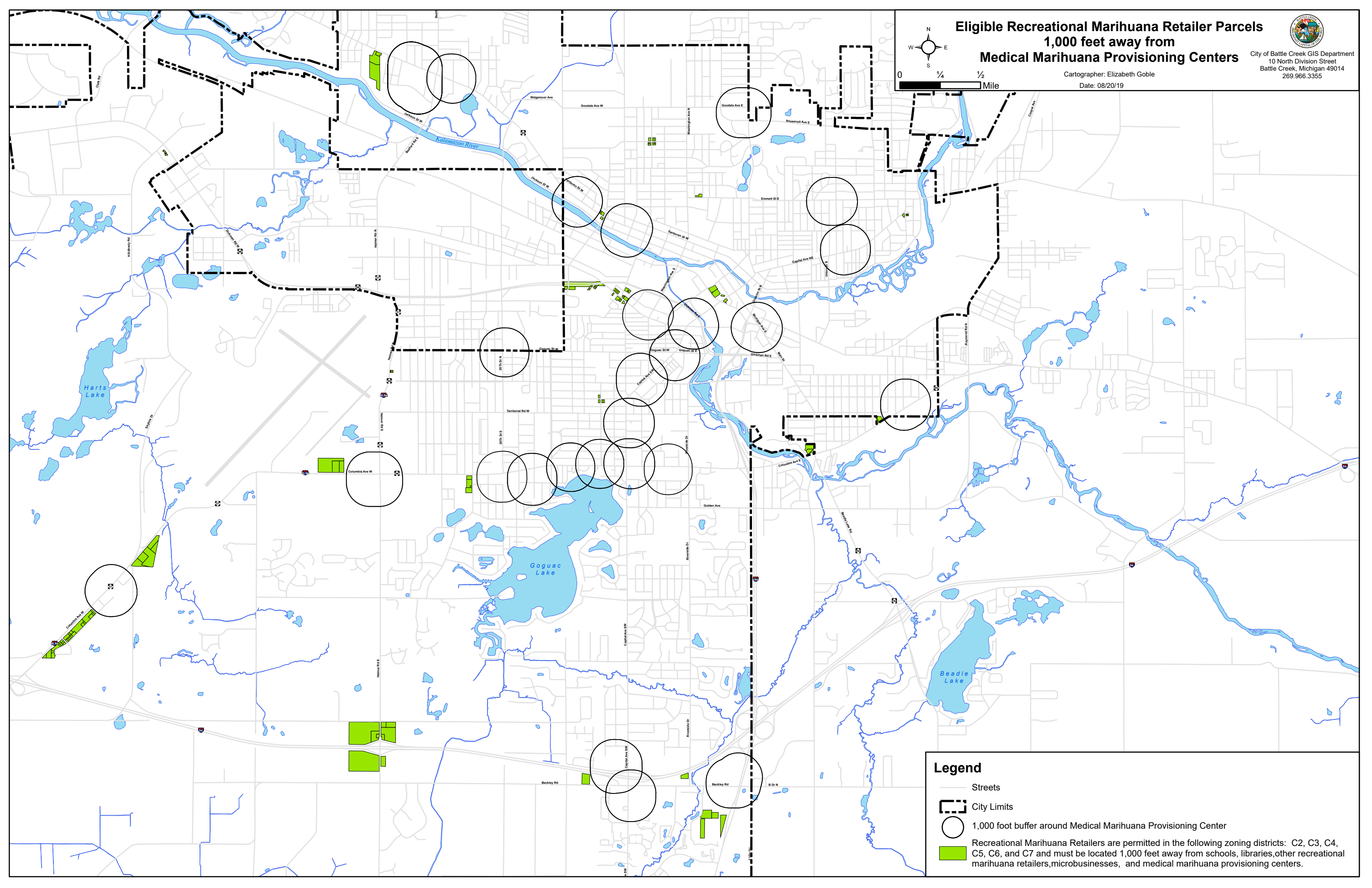
City of Battle Creek GIS Department  
10 North Division Street  
Battle Creek, Michigan 49014  
269.966.3355

Cartographer: Elizabeth Goble  
Date: 08/20/19



## Legend

- Streets
- City Limits
- 1,000 foot buffer around Medical Marihuana Provisioning Center
- Recreational Marihuana Retailers are permitted in the following zoning districts: C2, C3, C4, C5, C6, and C7 and must be located 1,000 feet away from schools, libraries, other recreational marihuana retailers, microbusinesses, and medical marihuana provisioning centers.

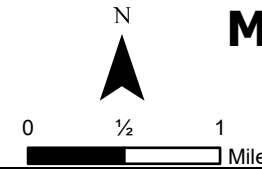






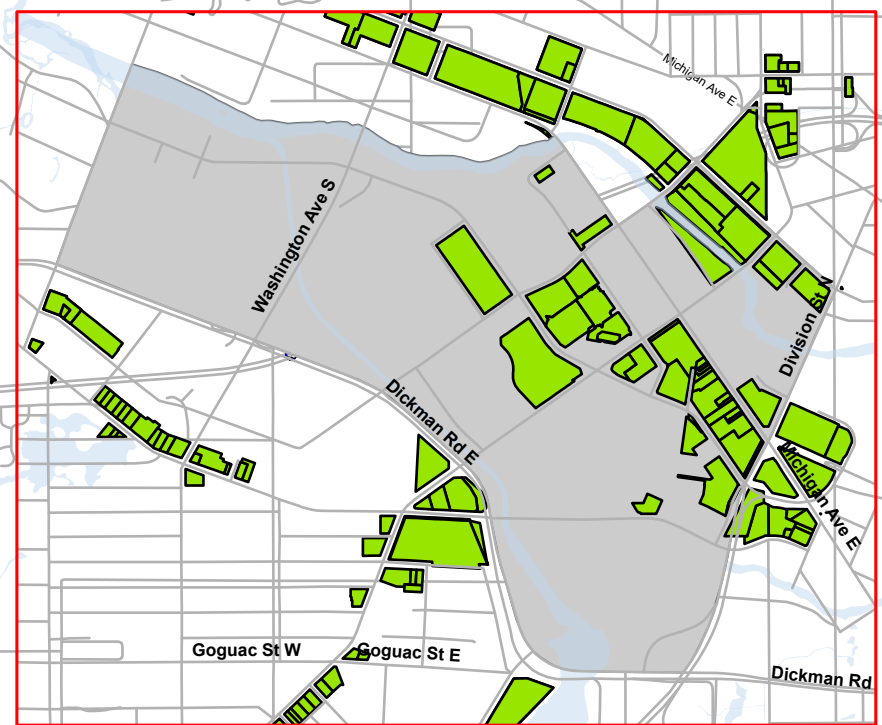
# Recreational Marihuana Microbusiness Map 1

City of Battle Creek GIS Department  
10 North Division Street  
Battle Creek, Michigan 49014  
269.966.3355



08/20/19

## Central Business District



### Legend

- Streets
- ┌ ┐ City Limits
- Recreational Marihuana Microbusinesses are permitted in the following zoning districts; C2, C3, C4, C5, and C6 when located 1,000 feet from another marihuana microbusiness, retailer, and medical marihuana provisioning center; and not abutting a property having a residential use or Residentially-zoned, measured from property line to property line.





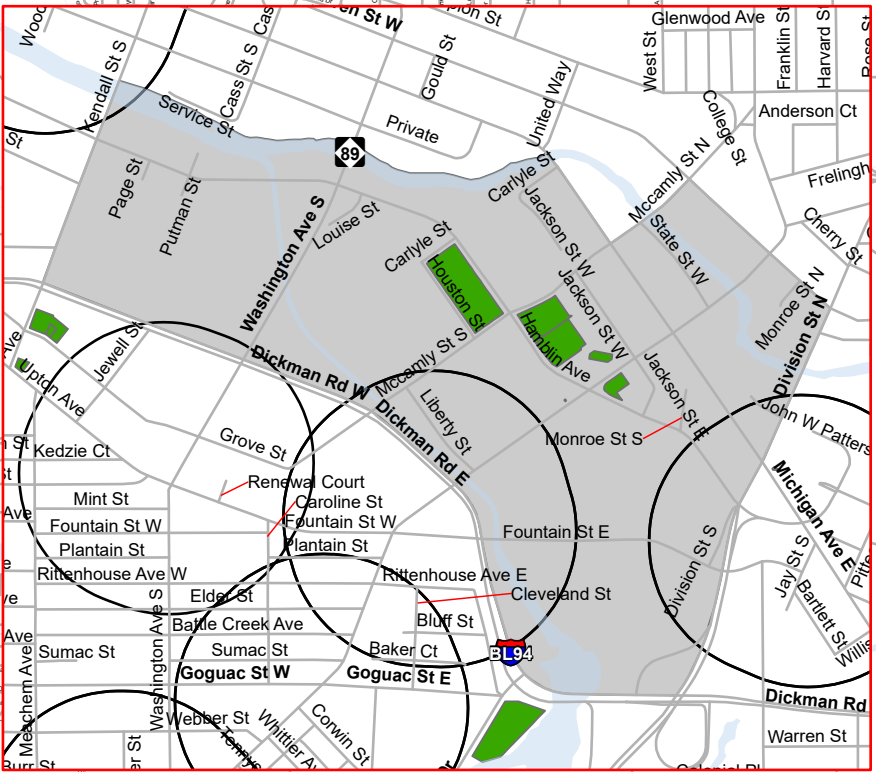
City of Battle Creek GIS Department  
10 North Division Street  
Battle Creek, Michigan 49014  
269.966.3355

**Eligible Recreational Marihuana  
Microbusiness Parcels  
1,000 feet away from  
Medical Marihuana Provisioning Centers**

08/21/19

0 1/2 1  
Mile

**Central Business District**



**Legend**

- Streets
- City Limits
- 1,000 foot buffer around medical marihuana provisioning centers
- Recreational Marihuana Microbusinesses are permitted in the following zoning districts; C2, C3, C4, C5, and C6 when located 1,000 feet from another marihuana microbusiness, retailer, medical marihuana provisioning center, library, school, and Residentially-zoned properties, measured from property line to property line.



City of Battle Creek  
Medical Marihuana Facilities and Adult Use Establishments Provisions  
Draft to Planning Commission  
August 24, 2019

Track Change Version

**Black font – Marihuana related verbiage**  
**Gray font – non-marihuana related verbiage for context**  
**Proposed New Content – color and underlined**  
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CHAPTER 1230.06 DEFINITIONS

- (42Aa+) “Marihuana, Adult Use Establishment” means: aA marihuana grower, marihuana safety compliance facility, marihuana processor, marihuana microbusiness, marihuana retailer, marihuana secure transporter, or any other type of marihuana-related business licensed to operate by the marijuana regulatory agency as authorized by the Michigan Regulation and Taxation of Marihuana Act (2018).
- (a) “Marihuana Grower” means a person licensed to cultivate marihuana and sell or otherwise transfer marihuana to marihuana establishments.
- (b) “Marihuana Microbusiness” means a person licensed to cultivate not more than 150 marihuana plants; process and package marihuana; and sell or otherwise transfer marihuana to individuals who are 21 years of age or older or to a marihuana safety compliance facility, but not to other marihuana establishments.
- (c) “Marihuana Processor” means a person licensed to obtain marihuana from marihuana establishments; process and package marihuana; and sell or otherwise transfer marihuana to marihuana establishments.
- (d) “Marihuana Retailer” means a person licensed to obtain marihuana from marihuana establishments and to sell or otherwise transfer marihuana to marihuana establishments and to individuals who are 21 years of age or older.
- (e) “Marihuana Secure Transporter” means a person licensed to obtain marihuana from marihuana establishments in order to transport marihuana to marihuana establishments.
- (f) “Marihuana Safety Compliance Facility means a person licensed to test marihuana, including certification for potency and the presence of contaminants.
- (42Bb) ~~Medical~~ Marihuana, Medical Facility. A State-licensed commercial entity operating pursuant to the Medical Marihuana Facilities Licensing Act (2016).
- (a) Medical Marihuana Grower or Grow Facility means a licensee that is a commercial entity located in this State and licensed pursuant to the MMFLA that cultivates, dries, trims, or cures and packages marihuana for sale to a processor or provisioning center.
- (b) Processor and Medical Marihuana Processing Facilities means a licensee that is a commercial entity and facility located in this State and licensed pursuant to the MMFLA that purchases marihuana from a grower and that extracts resin from the marihuana or

creates a marihuana-infused product for sale and transfer in packaged form to a provisioning center.

(c) Medical Marihuana Provisioning Center means a licensee and facility that is a commercial entity located in this State and licensed pursuant to the MMFLA that purchases marihuana from a grower or processor and sells, supplies, or provides marihuana to registered qualifying patients, directly or through their registered primary caregivers. The term includes any commercial property where marihuana is sold at retail to registered qualifying patients or registered primary caregivers. A noncommercial location used by a primary caregiver to assist a qualifying patient connected to the caregiver through the marihuana registration process of the Department of Licensing and Regulation in accordance with the Michigan Medical Marihuana Act will not be a provisioning center for purposes of the Licensing Act.

(d) Medical Marihuana Safety Compliance Facility means a licensee and facility that is a commercial entity and licensed pursuant to the MMFLA that receives marihuana from a marihuana facility or registered primary caregiver, tests it for contaminants and for tetrahydrocannabinol (THC) and other cannabinoids, returns the test results, and may return the marihuana to the facility.

(e) Medical Marihuana Secure Transporter means a licensee and facility that is a commercial entity located in this State and licensed pursuant to the MMFLA that stores marihuana and transports it between marihuana facilities for a fee.

## CHAPTER 1262 C-2 GENERAL BUSINESS DISTRICTS

- 1262.01 Applicable regulations.
- 1262.02 Purpose.
- 1262.03 Permitted uses.
- 1262.04 Prohibited uses.
- 1262.05 Height, yard, lot area, building coverage, sign and parking and loading and site plan review requirements.

### **CROSS REFERENCES**

Zoning and planning in home rule cities - see M.C.L.A. Sec. 117.4i

~~Regulation of location of trades, buildings and uses by local authorities~~ Regulation of land development and establishment of districts; provisions; uniformity of regulations; designations; limitations - see M.C.L.A. Sec. ~~125.581~~ 125.3201

Regulation of buildings; authority to zone - see M.C.L.A. Sec. 125.~~582~~3202

~~Regulation of congested areas~~ - see ~~M.C.L.A. Sec. 125.583~~

Uses of land or structures not conforming to ordinances; powers of legislative bodies; acquisition of property - see M.C.L.A. Sec. 125.~~583a~~3208

Yard exceptions within commercial districts - see P. & Z. 1278.05

Signs in the C-2 Districts - see P. & Z. 1296.37

Rental housing - see B.R. & T. Ch. 842

### **1262.01 APPLICABLE REGULATIONS.**

The regulations set forth in this chapter, or set forth elsewhere in this Zoning Code, when referred to in this chapter, are the regulations of the C-2 General Business District.  
(Ord. 36-84. Passed 12-18-84.)

### **1262.02 PURPOSE.**

The C-2 General Business District is established to accommodate those retail and business service activities that serve the whole community and the metropolitan region. Such activities require land and structure uses that are typically compact and densely grouped, generating a large volume of pedestrian and vehicular traffic.

It is the purpose of these regulations to permit the establishment of a wide variety of business enterprises and to provide flexibility for adaptation to new merchandising techniques.

(Ord. 36-84. Passed 12-18-84.)

### **1262.03 PERMITTED USES.**

In a C-2 General Business District, a building or premises shall be used only for the following purposes:

- (a) Any use permitted in the C-1 Neighborhood Commercial District;
- (b) Restaurants and eating establishments, including drive-ins;
- (c) Dyeing and cleaning works, provided that the cleaning fluid used has a base which is of a nonexplosive material;
- (d) Hotels and motels;
- (e) Laundries;
- (f) Printing shops;

- (g) Recreation and amusement activities when enclosed within a building;
- (h) Theaters;
- (i) Radio broadcasting and telecasting stations, studios, offices and telecommunications exchange buildings;
- (j) Veterinary or animal hospitals, provided that no such building, kennel or exercise runway is closer than 100 feet to any residence or Residential District;
- (k) Accessory buildings and uses which are customarily incidental to the uses set forth in this section; and
- (l) Boarding houses for more than ten individuals.
- (m) State Licensed Medical Marihuana Provisioning Centers with an approved Medical Marihuana Facilities permit pursuant to Ch. 833 and consistent with Ch. 1299 Medical Marihuana when located at least 1,000 feet away from a property containing a Medical Marihuana Provisioning Center; and at least 1,000 feet away from K-12 schools and libraries open to the public. These setback measurements are between nearest property lines, regardless of ownership of property or licensee.
- (n) State Licensed Adult Use Marihuana Retailers with an approved Adult Use Marihuana Establishment permit pursuant to Ch. 835 and consistent with Chapter 1299 Marihuana Facilities and Establishments when located at least 1,000 feet away from a property containing an Adult Use Marihuana Retailer, an Adult Use Marihuana Microbusiness, and a Medical Marihuana Provisioning Center; and at least 1,000 feet from K-12 schools and libraries open to the public. The setback measurements are between nearest property lines, regardless of ownership of property or licensee.
- (o) State Licensed Adult Use Microbusinesses with an approved Adult Use Marihuana Establishment permit pursuant to Chapter 835 and consistent with Chapter 1299 Marihuana Facilities and Establishments when meeting the following locational specifications:
  - (1) The property at which the Microbusiness will be located shall be at least 1,000 feet away from any property containing an Adult Use Marihuana Retailer, an Adult Use Marihuana Microbusiness, and a Medical Marihuana Provisioning Center; setbacks measured between nearest property lines, regardless of ownership of property or licensee; and
  - (2) The property at which the Microbusiness will be located shall be at least 1,000 feet from K-12 schools and libraries open to the public, setbacks measured between nearest property lines, regardless of ownership of property or licensee; and
  - (3) The property at which the Microbusiness will be located shall not abut a Residential ('R') zoning district or a property with a residential use.

#### **1262.04 PROHIBITED USES.**

The following uses shall specifically be prohibited in the C-2 General Business District:

- (a) Sale, rental or display of motor vehicles, trailers or boats; and
- (b) Manufacturing and processing establishments not selling their entire output at retail on the premises.

(Ord. 36-84. Passed 12-18-84.)

**1262.05 HEIGHT, YARD, LOT AREA, BUILDING COVERAGE, SIGN, PARKING AND LOADING AND SITE PLAN REVIEW REQUIREMENTS.**

The uses provided for in Section 1262.03 are subject to the following requirements:

- (a) Maximum height, as required by Chapter 1276;
- (b) Yards, as required by Chapter 1278;
- (c) Lot area, as required by Chapter 1282;
- (d) Building coverage, as required by Chapter 1280;
- (e) Signs, as required by Chapter 1296;
- (f) Off-street parking and loading, as required by Chapter 1284; and
- (g) Site plan review, as required by Chapter 1294.

## **CHAPTER 1264 C-3 INTENSIVE BUSINESS DISTRICTS**

1264.01 Applicable regulations.

1264.02 Purpose.

1264.03 Permitted uses.

1264.04 Height, yard, lot area, building coverage, sign and parking and loading and site plan review requirements.

### ***CROSS REFERENCES***

Zoning and planning in home rule cities - see M.C.L.A. Sec. 117.4i

Regulation of location of trades, buildings and uses by local authorities - see M.C.L.A. Sec. 125.581

Regulation of buildings; authority to zone - see M.C.L.A. Sec. 125.582

Regulation of congested areas - see M.C.L.A. Sec. 125.583

Uses of land or structures not conforming to ordinances; powers of legislative bodies; acquisition of property - see M.C.L.A. Sec. 125.583a

Commercial businesses - see B.R. & T. Ch. 822

Yard exceptions within commercial districts - see P. & Z. 1278.05

Signs in the C-3 Districts - see P. & Z. 1296.37, 1296.39

Rental housing - see B.R. & T. Ch. 842

### **1264.01 APPLICABLE REGULATIONS.**

The regulations set forth in this chapter, or set forth elsewhere in this Zoning Code, when referred to in this chapter, are the district regulations of the C-3 Intensive Business District. (Ord. 36-84. Passed 12-18-84.)

### **1264.02 PURPOSE.**

The C-3 Intensive Business District is intended to accommodate those business activities that typically generate large volumes of motor vehicle traffic, that require large areas of off-street parking, that produce, in varying amounts, noise, glare, odors, dust, hazards and that are potential obstacles to an efficient and convenient general business district. (Ord. 36-84. Passed 12-18-84.)

### **1264.03 PERMITTED USES.**

In a C-3 Intensive Business District, a building or premises shall be used only for the following purposes:

- (a) Any use permitted in the C-2 General Business District;
- (b) Any retail business;
- (c) Motor vehicle, trailer and boat display, sales and rental, provided that the space used therefor is paved and adequately maintained so as to provide a durable, smooth and dust-free surface, and is so graded and provided with adequate drainage facilities so that all collected surface water is effectively carried away from the site;
- (d) Motor vehicle repairing, in which all storage of vehicles, as well as all activities, are conducted within a permanent, fully enclosed building;
- (e) Drive-in businesses, excluding drive-in theaters, where service may be in automobiles or outdoors, but with all other activities carried on within a building;

- (f) Second hand stores; and
- (g) Freezer lockers for retail business only.
- (h) State Licensed Medical Marihuana Secure Transporters and Safety Compliance Facilities with an approved Medical Marihuana Facilities permit pursuant to Ch. 833 and consistent with Ch. 1299 Medical Marihuana where located at least 1,000 feet away from properties, as measured between nearest property lines, containing any of the following uses:
  - 1) Religious assembly uses;
  - 2) Private or public schools;
  - 3) Public parks;
  - 4) Libraries open to the public;
  - 5) Any property with a residential use; and
  - 6) Any Residential ('R') zoned property.
- (i) State Licensed Adult Use Secure Transporters and Safety Compliance Establishments with an approved Adult Use Marihuana Establishment permit pursuant to Ch. 835 and consistent with Ch. 1299 Marihuana Facilities and Establishments when located at least 1,000 feet away from properties, as measured between nearest property lines, containing any of the following uses:
  - 1) Religious assembly uses;
  - 2) Private or public schools;
  - 3) Public parks;
  - 4) Libraries open to the public;
  - 5) Any property with a residential use; and
  - 6) Any Residential ('R') zoned property.

#### **1264.04 HEIGHT, YARD, LOT AREA, BUILDING COVERAGE, SIGN, PARKING AND LOADING AND SITE PLAN REVIEW REQUIREMENTS.**

The uses provided for in Section 1264.03 are subject to the following requirements:

- (a) Maximum height, as required by Chapter 1276;
- (b) Yards, as required by Chapter 1278;
- (c) Lot area and lot width, as required by Chapter 1282;
- (d) Building coverage, as required by Chapter 1280;
- (e) Signs, as required by Chapter 1296;
- (f) Off-street parking and loading, as required by Chapter 1284; and
- (g) Site plan review, as required by Chapter 1294.

## CHAPTER 1268 C-5 PLANNED SHOPPING DISTRICTS

- 1268.01 Applicable regulations.
- 1268.02 Plan required.
- 1268.03 Permitted uses.
- 1268.04 Procedure.
- 1268.05 Review and approval.
- 1268.06 Delay in construction.
- 1268.07 Off-street parking and loading.
- 1268.08 Height, yard, lot area, building coverage, sign and site plan review requirements.

### ***CROSS REFERENCES***

Zoning and planning in home rule cities - see M.C.L.A. Sec. 117.4i

Regulation of location of trades, buildings and uses by local authorities - see M.C.L.A. Sec. 125.581

Regulation of buildings; authority to zone - see M.C.L.A. Sec. 125.582

Regulation of congested areas - see M.C.L.A. Sec. 125.583

Uses of land or structures not conforming to ordinances; powers of legislative bodies; acquisition of property - see M.C.L.A. Sec. 125.583a

Yard exceptions within commercial districts - see P. & Z. 1278.05

Signs in the C-5 District - see P. & Z. 1296.37

Rental housing - see B.R. & T. Ch. 842

### **1268.01 APPLICABLE REGULATIONS.**

The regulations set forth in this chapter, or set forth elsewhere in this Zoning Code, when referred to in this chapter, are the district regulations of the C-5 Planned Shopping District. (Ord. 36-84. Passed 12-18-84.)

### **1268.02 PLAN REQUIRED.**

The C-5 Planned Shopping District shall be designed and developed as a unit according to an improved plan, as provided in this chapter, in order to provide for retail shopping facilities of integrated design in appropriate locations to serve residential neighborhoods. (Ord. 36-84. Passed 12-18-84.)

### **1268.03 PERMITTED USES.**

In a C-5 Planned Shopping District, a building or premises shall be used only for the retail sale of merchandise, service facilities, parking areas and similar facilities ordinarily considered to be an indispensable function of residential neighborhoods, as follows:

- (a) No plan shall be favorably considered unless it contains at least one retail establishment primarily selling food and other convenience and household goods for consumption or utilization off the premises. It is the intent of this requirement to provide for a grocery store or supermarket to service the needs of adjacent residential areas.
- (b) Retail stores, such as drug, variety, apparel and furniture, nurseries and hardware stores are permitted.



- (c) Restaurants limited to food service only, excluding drive-in establishments and establishments in which the principal activity is the dispensing of alcoholic beverages, are permitted.
- (d) Residential uses, including transient facilities, are prohibited.
- (e) Services generally required by a family at intervals of a week or less, such as dry-cleaning, laundromats, shoe repair, barber and beauty shops and gasoline service stations, are restricted as follows:
  - (1) Services shall be limited to passenger vehicles and trucks not exceeding one and one-half tons capacity, and all services except those limited to pump islands shall be carried on within a totally enclosed building.
  - (2) Services and repairs shall exclude those activities considered to be heavy repairs, including, but not limited to, the changing of chassis, bodies or motor trains, body repairs and painting. Included in these allowable services are muffler repair or replacement shops, oil change and tune-up facilities and tire and battery stores.
- (f) State Licensed Medical Marihuana Provisioning Centers with an approved Medical Marihuana Facilities permit pursuant to Ch. 833 and consistent with Ch. 1299 Medical Marihuana when located at least 1,000 feet away from a property containing a Medical Marihuana Provisioning Center; and at least 1,000 feet away from K-12 schools and libraries open to the public. These setback measurements are between nearest property lines, regardless of ownership of property or licensee.
- (g) State Licensed Adult Use Marihuana Retailers with an approved Adult Use Marihuana Establishment permit pursuant to Ch. 835 and consistent with Chapter 1299 Marihuana Facilities and Establishments when located at least 1,000 feet away from a property containing an Adult Use Marihuana Retailer, an Adult Use Marihuana Microbusiness, and a Medical Marihuana Provisioning Center; and at least 1,000 feet from K-12 schools and libraries open to the public. The setback measurements are between nearest property lines, regardless of ownership of property or licensee.
- (h) State Licensed Adult Use Microbusiness with an approved Adult Use Marihuana Establishment permit pursuant to Chapter 835 and consistent with Chapter 1299 Marihuana Facilities and Establishments when meeting the following locational specifications:
  - (1) The property at which the Microbusiness will be located shall be at least 1,000 feet away from any property containing an Adult Use Marihuana Retailer, an Adult Use Marihuana Microbusiness, and a Medical Marihuana Provisioning Center; setbacks measured between nearest property lines, regardless of ownership of property or licensee; and
  - (2) The property at which the Microbusiness will be located shall be at least 1,000 feet from K-12 schools and libraries open to the public, setbacks measured between nearest property lines, regardless of ownership of property or licensee; and
  - (3) The property at which the Microbusiness will be located shall not abut a residential zoning district or a residential use.

#### **1268.04 PROCEDURE.**

The owner of a tract of land which comprises five acres or more may submit to the City Commission a plan for the use and development of such tract for the purpose of, and meeting the requirements set forth in, this chapter. Such plan shall be accompanied by evidence

concerning the feasibility of the project and its effect on surrounding property and other physical conditions, which plan and supporting evidence shall include each of the following:

(a) A site plan defining the areas to be developed for buildings, parking, landscaping, pedestrian and vehicular circulation, points of ingress and egress, including service roads, where required, the location and height of walls, the provision of loading spaces, the location, size and number of signs and design techniques utilized to protect adjacent land uses and zoning districts. Such site plan shall include the existing and proposed topography of the site, either by two-foot contour intervals or spot elevations, vegetation on site, provisions for screening of refuse containers, exterior lighting plan, and provisions for proposed utilities and storm drainage collection and disposal.

(b) A report on the market to be served, the types and amount of service needed and general economic justification therefor;

(c) A traffic survey or study prepared by qualified experts which, among other things, indicates the total traffic impact of the proposed shopping center on adjacent streets and the anticipated points of origin, direction and amount of traffic flow to and from the shopping center; and

(d) A statement of financial responsibility to assure the construction of the planned shopping center is in accordance with the plan and the requirements of this chapter.

(Ord. 36-84. Passed 12-18-84.)

#### **1268.05 REVIEW AND APPROVAL.**

Before any action is taken thereon by the City Commission, the proposed planned shopping center plan, together with the required statements and supplementary information, shall be referred to the Planning Commission for study and report. The recommendation of the Planning Commission shall then be submitted to the City Commission for official adoption or disapproval. In making its report, the Planning Commission shall state the reasons for its recommendation and in doing so shall consider the economic feasibility of the district and its effect on the health, safety and general welfare of the residents, traffic and the values of surrounding property.

(Ord. 36-84. Passed 12-18-84.)

#### **1268.06 DELAY IN CONSTRUCTION.**

If the construction of the shopping center is not commenced within two years of the date of approval by the City Commission, the district shall revert to the same zoning classification that existed prior to approval of the C-5 District, and the zoning regulations of such former district shall thereupon be in full force and effect.

(Ord. 36-84. Passed 12-18-84.)

#### **1268.07 OFF-STREET PARKING AND LOADING.**

For each 1,000 square feet of gross floor area, there shall be provided five off-street parking spaces. Adequate provision for off-street loading and unloading of trucks and other vehicles shall also be shown on the plan.

(Ord. 36-84. Passed 12-18-84.)

#### **1268.08 HEIGHT, YARD, LOT AREA, BUILDING COVERAGE, SIGN AND SITE PLAN REVIEW REQUIREMENTS.**

The uses provided for in Section 1268.03 are subject to the following requirements:

- (a) Maximum height, as required by Chapter 1276;
  - (b) Yards, as required by Chapter 1278;
  - (c) Lot area, as required by Chapter 1282;
  - (d) Building coverage, as required by Chapter 1280;
  - (e) Signs, as required by Chapter 1296; and
  - (f) Site plan review, as required by Chapter 1294.
- (Ord. 36-84. Passed 12-18-84.)

## **CHAPTER 1270 C-6 MAJOR HIGHWAY INTERCHANGE BUSINESS DISTRICT**

- 1270.01 Applicable regulations.
- 1270.02 Purpose.
- 1270.03 Permitted uses.
- 1270.04 Site development requirements.

### ***CROSS REFERENCES***

Zoning and planning in home rule cities - see M.C.L.A. Sec. 117.4i  
Regulation of location of trades, buildings and uses by local authorities - see M.C.L.A. Sec. 125.581  
Regulation of buildings; authority to zone - see M.C.L.A. Sec. 125.582  
Regulation of congested areas - see M.C.L.A. Sec. 125.583  
Uses of land or structures not conforming to ordinances; powers of legislative bodies; acquisition of property - see M.C.L.A. Sec. 125.583a  
Signs in C-6 Districts - see P. & Z. 1296.37  
Rental housing - see B.R. & T. Ch. 842

### **1270.01 APPLICABLE REGULATIONS.**

The regulations set forth in this chapter, or set forth elsewhere in this Zoning Code, when referred to in this chapter, are the district regulations of the C-6 Major Highway Interchange Business District.

(Ord. 36-84. Passed 12-18-84.)

### **1270.02 PURPOSE.**

The C-6 Major Highway Interchange Business District is established to accommodate those specialized retail and business service activities herein specified that serve the whole community, as well as persons traveling on interstate highways, and typically may be grouped around a major interstate highway interchange (I-94) generating a considerable volume of vehicular traffic. It is the purpose of these regulations to permit the establishment of a limited variety of business enterprises and to provide flexibility for adaptation to new merchandising techniques as may develop, particularly where the use of motor vehicles is involved. In order to utilize the full potential effectiveness of this District, certain functions that would operate more effectively in other districts and that would interfere with the general business effectiveness of this District have been intentionally excluded. The uses permitted in this District shall be limited strictly to those uses mentioned in Section 1270.03.

(Ord. 36-84. Passed 12-18-84. )

### **1270.03 PERMITTED USES.**

In a C-6 Major Highway Interchange Business District, the following uses are permitted. However, all must be conducted wholly in a permanent, fully enclosed building, unless otherwise stated:

- (a) Retail establishments selling principally (ninety percent of total sales measured in dollar volume) new merchandise;
- (b) Personal and business services, excluding processing of physical materials;
- (c) Passenger terminals;

- (d) Offices, banks and public buildings;
- (e) Restaurants and drive-in businesses, excluding drive-in theaters, where service may be in automobiles or outdoors;
- (f) Motels or hotels, subject to the following conditions:
  - (1) Minimum lot area. The minimum lot area shall be one acre with a minimum width of 150 feet, provided that there shall be not less than 800 square feet of lot area for each guest unit.
  - (2) Lighting. No lighting shall have a source of illumination visible outside of the boundaries of the lot. Such lighting shall, in no way, impair safe movement of traffic on any street or highway. No lighting shall shine directly on adjacent properties.
- (g) Essential services;
- (h) Golf driving ranges and miniature golf courses under the following conditions:
  - (1) No lighting shall have a source of illumination visible outside of the boundaries of the lot from a residential area and no lighting shall shine directly on adjacent properties.
  - (2) Parking areas shall be screened from adjacent residences to prevent headlight glare.
  - (3) Access by motor vehicles to such lot by way of minor or residential streets is permitted, provided that such streets are paved with a bituminous or concrete surface meeting the specifications of the City Engineer.
- (i) Indoor amusement and entertainment, including, but not limited to, movie theaters, roller skating rinks, bingo, soccer and hockey.
- (j) State Licensed Medical Marihuana Provisioning Centers with an approved Medical Marihuana Facilities permit pursuant to Ch. 833 and consistent with Ch. 1299 Medical Marihuana when located at least 1,000 feet away from a property containing a Medical Marihuana Provisioning Center, regardless of ownership of property or licensee; and at least 1,000 feet away from K-12 schools and libraries open to the public. These setback measurements are between nearest property lines, regardless of ownership of property or licensee.
- (k) State Licensed Adult Use Marihuana Retailers with an approved Adult Use Marihuana Establishment permit pursuant to Ch. 835 and consistent with Chapter 1299 Marihuana Facilities and Establishments when located at least 1,000 feet away from a property containing an Adult Use Marihuana Retailer, an Adult Use Marihuana Microbusiness, and a Medical Marihuana Provisioning Center; and at least 1,000 feet from K-12 schools and libraries open to the public. The setback measurements are between nearest property lines, regardless of ownership of property or licensee.
- (l) State Licensed Adult Use Microbusiness with an approved Adult Use Marihuana Establishment permit pursuant to Chapter 835 and consistent with Chapter 1299 Marihuana Facilities and Establishments when meeting the following locational specifications:
  - (1) The property at which the Microbusiness will be located shall be at least 1,000 feet away from any property containing an Adult Use Marihuana Retailer, an Adult Use Marihuana Microbusiness, and a Medical Marihuana Provisioning Center; setbacks measured between nearest property lines, regardless of ownership of property or licensee; and

- (2) The property at which the Microbusiness will be located shall be at least 1,000 feet from K-12 schools and libraries open to the public, setbacks measured between nearest property lines, regardless of ownership of property or licensee; and
- (3) The property at which the Microbusiness will be located shall not abut a residential zoning district or a residential use.

#### **1270.04 SITE DEVELOPMENT REQUIREMENTS.**

Developments permitted within the C-6 Major Highway Interchange District shall meet the following minimum site development requirements:

- (a) Minimum Lot Area. The minimum lot area shall be not less than 25,000 square feet, unless otherwise specified.
- (b) Minimum Lot Width. The minimum lot width shall be not less than 150 feet, unless otherwise specified.
- (c) Yards. A yard adjacent to a street right of way shall provide a minimum building setback of thirty-five feet, except that south of 1-94 on lots fronting Beckley Road or Capital Avenue, S.W., such setback shall be a minimum of fifty feet, and the following:
  - (1) Safety strip. A strip of land at least ten feet wide along the street lot line shall be preserved with a berm or permanent natural plantings, neither of which shall exceed three feet in height. This ten-foot wide strip shall be referred to as the safety strip.
  - (2) Rear yard. No rear yard shall be required, but if any lot in this District abuts a residential use or a Residential District, a transition strip of at least fifty feet shall be provided. The inner thirty feet of the transition strip may be used for parking and there shall be erected along the boundary lines of any such lot abutting a Residential District a five-foot high landscaped berm or combination of natural plantings that total not less than eight feet high and act as a year round visual barrier. A masonry wall of at least five feet but not more than eight feet in height will also satisfy this requirement. The fence or wall shall be neat and harmonious in appearance with the character of the immediate residential area and shall be maintained in good condition at all times. The fence or berm shall be considered an integral part of the requirements for the use proposed.
- (d) Compliance Requirements for New Businesses. For those sites that do not currently provide sufficient setbacks to ensure traffic safety along any public right of way, it shall be required that upon a site plan modification or a re-opening of a business closed for more than 120 days, a ten-foot wide safety strip shall be provided along the road frontage. No sign shall be permitted on or above the safety strip.  
(Ord. 36-84. Passed 12-18-84; Ord. 7-87. Passed 6-2-87.)
- (e) Noise. Noise emanating from a use in this District shall not exceed the levels for ordinary conversation or normal traffic noise peaks at the boundaries of the lot. No physical vibration humanly perceptible at or beyond the lot boundaries shall be allowed.
- (f) Signs. Signs shall comply with Chapter 1296.
- (g) Off-Street Parking and Loading. Developments must comply with the off-street parking and loading requirements of Chapter 1284 unless otherwise specified.
- (h) Site Plan Review. Developments must comply with the site plan review requirements of Chapter 1294.

## **CHAPTER 1271 C-7 STREET-LEVEL RETAIL DISTRICT**

- 1271.01 Applicable regulations.
- 1271.02 Purposes.
- 1271.03 Definitions.
- 1271.04 Permitted uses.
- 1271.05 Erection of poles and wires.
- 1271.06 Height, width, lot area, building coverage, sign and site plan review requirements.
- 1271.07 Mixed commercial and residential uses.
- 1271.08 Off-street parking and loading.
- 1271.09 Conflicts with State of local business licensing requirements or regulations.
- 1271.10 (Repealed).
- 1271.11 Prohibited uses.

### ***CROSS REFERENCES***

Zoning and planning in home rule cities - see M.C.L.A. Sec. 117.4i

Authority to zone; Regulation of location of trades, buildings and uses by local authorities - see M.C.L.A. Sec. 125.3201

Uses of land or structures not conforming to ordinances; powers of legislative bodies; acquisition of property - see M.C.L.A. Sec. 125.3208

Commercial businesses - see B.R. & T. Ch. 822

Rental housing - see B.R. & T. Ch. 842

### **1271.01 APPLICABLE REGULATIONS.**

- (a) The regulations set forth in this chapter, or set forth elsewhere in this Zoning Code, when referred to in this chapter, are the district regulations of the C-7 Street-Level Retail District.
- (b) The restrictions and regulations of Chapter 814 shall be applicable to this chapter.  
(Ord. 25-92. Passed 11-24-92; Ord. 08-2010. Passed 7-6-10.)

### **1271.02 PURPOSES.**

The C-7 Street-Level Retail District is established to revitalize commercial areas which, through business relocation, substantial change in surrounding uses, changes in the market, or a combination thereof, require the orderly placement of business establishments to provide the maximum use of buildings to accommodate and respond to changes in vehicular and pedestrian traffic flow. To permit the full potential of this District, certain uses which would interfere with the general effectiveness of this District have been intentionally excluded, and uses permitted herein are intended to be strictly limited in their definition.

(Ord. 25-92. Passed 11-24-92; Ord. 08-2010. Passed 7-6-10.)

### **1271.03 DEFINITIONS.**

As used in this chapter:

- (a) "Apartment" means a living unit of at least 500 square feet which is intended or designed for use as a residence by a single family and which includes its own kitchen and bath facilities.
- (b) "Art gallery" means a premises used for the display and sale of original works of art.
- (c) "Art studio" means a building used for the production, display and sale of works of art.
- (d) "Banquet and meeting hall" means a premises available to the public for rental for the purpose of holding meetings, banquets and receptions.
- (e) "Box office" means a premises, not necessarily attached to a theater, museum, exhibition hall or athletic facility, used for the sale of tickets for admission to entertainment, including, but not limited to, athletic events, theatrical performances, museum admissions or concerts.
- (e)(1) "Brewpub" means a licensed facility that manufactures and sells at that licensed premises not more than 2,000 barrels of beer/ale per year for consumption on that premises only.
- (f) "Church" means a building that people regularly attend to participate in or hold religious services, meetings or other religious activities of any denomination. The term "church" also includes synagogues, temples and mosques.
- (g) "Collectibles shop" means a business limited to the sale or trade of first-edition hardcover books, board or electronic games, including card games, computer games, role-playing or miniature games, CD's, DVD's, sports trading cards, comic books, stamps, coins, antique jewelry or a combination thereof. The term "collectibles shop" does not include secondhand goods dealers or pawn shops.
- (h) "Exhibition hall" means a premises open to the public for the viewing of temporary exhibits of collections or displays of items relating to, or artifacts of, natural, local, State or national history; the presentation of theatrical performances or musical concerts; or the holding of flea markets, swap meets or other shows involving the sale or trade of publicly displayed items and merchandise.
- (i) "Financial institutions" means banks, savings and loans, credit unions, mortgage or loan companies and stock brokers. The term "financial institutions" does not include pawnbrokers, bail bondsmen or cash advance establishments.
- (j) "Florist shop" means a business whose principal purpose is the display and sale of natural and silk flowers, arrangements of flowers and decorative accessories used in the display of flowers.
- (k) "Interior decorating and design studio" means a business which displays interior decorating and design merchandise, such as furniture, wallpaper, fabric, floor coverings and accessories as samples shown on the premises which individuals may order from catalogues. The term "interior decorating and design studio" does not include the warehousing of interior decorating and design merchandise for on-site retail sale.
- (1) "Microbrewery" means a brewery that produces less than 20,000 barrels of ale/beer per year for on-site consumption, take-out and distribution to wholesalers and/or restaurants, taverns and retail stores, and is open to the general public for sales and tours.
- (m) "Mission" means a facility providing temporary lodging and ancillary services, such as the provision of food, clothing or other services, to alleviate the suffering of indigent, needy, homeless or transient persons.
- (n) "Museum" means a premises used for the storage and display of artifacts, memorabilia and works of art which are open to public viewing.



- (o) "Photocopy service" means a business that reproduces drawings, plans, maps or other documents by means of blueprinting or photocopying.
  - (p) "Print shop" means a retail establishment which provides duplicating services using photocopy, blueprint or off-set printing equipment, which may also include the collating of booklets and reports.
  - (q) "Private club" means a premises not open to the public and used for the meeting of a nonprofit organization of persons operated for the promotion and promulgation of common interests. The term "private club" does not include churches and missions.
  - (r) "Professional offices" means, by way of example, but is not limited to, an attorney's offices, an architect's offices, an engineer's offices, insurance offices, an accountant's offices and real estate offices, but not medical, dental or veterinary offices, clinics or laboratories.
  - (s) "Retail sales" means the sale of new, unused goods.
  - (t) "Tailor, dressmaking or millinery shops" means premises used for the custom manufacture of clothing and hats as well as the alteration and repair of clothing and hats.
  - (u) "Visitor information center" means a premises used for the dissemination of cultural, historic or tourist information.
  - (v) "Work of art" means an original creation, such as, but not limited to, oil, acrylic or water color paintings, clay, pottery or papermache sculptures or screened or photographic prints, of such a nature as to be suitable for a juried art exhibition or auction. The term "work of art" does not include objects which are knitted or crocheted, items created by a kit, wooden toys or other similar craft or hobby items made from a pattern.
- (Ord. 25-92. Passed 11-24-92; Ord. 08-2010. Passed 7-6-10.)

#### **1271.04 PERMITTED USES.**

- (a) In a C-7 Street-Level Retail District, a building or premises shall be used only for the following purposes:
  - (1) Retail sales;
  - (2) Art gallery;
  - (3) Museums;
  - (4) Visitor information centers;
  - (5) Beauty and barber shops;
  - (6) Tailor, dressmaking and millinery shops;
  - (7) Financial institutions;
  - (8) Photography studios;
  - (9) Restaurants, including fast food restaurants, but not including drive-in restaurants;
  - (10) Pet shops, but not kennels or veterinary offices;
  - (11) Printing and photocopying shops;
  - (12) Theaters having a minimum of fifty seats;
  - (13) Travel bureaus;
  - (14) Collectible shops;
  - (15) Florist shop;
  - (16) Exhibit hall;
  - (17) Stores for the collection and distribution of laundry and dry cleaning, but not for the actual treatment, cleaning or processing of such articles;
  - (18) Photographic film sales and development shops;

- (19) Shoe repair/shoe shine shops;
- (20) News and magazine stands;
- (21) Box offices;
- (Ord. 25-92. Passed 11-24-92.)
- (22) Microbreweries and brewpubs; and
- (Ord. 4-96. Passed 6-4-96.)
- (23) United States Military forces, including the U.S. Army, U.S. Navy, U.S. Air Force, U.S. Marines, U.S. Coast Guard, and National Guard recruiting offices.
- (Ord. 17-07. Passed 11-20-07.)
- (24) Professional offices;
- (25) Artist studios;
- (26) Banquet and meeting halls;
- (27) Private clubs;
- (28) Employment agencies;
- (29) In-door health and fitness facilities;
- (30) Medical or dental, but not veterinary, offices, clinics and laboratories;
- (31) Private trade, vocational, art, business, dance or music schools;
- (32) Recording studios;
- (33) Reading rooms;
- (34) Interior decorating studios;
- (35) Child day-care centers;
- (36) Apartments on the second floor, or higher;
- (37) Small appliance repair shop;
- (38) Video rental stores;
- (39) Dance studios.
- (40) State Licensed Medical Marihuana Provisioning Centers with an approved Medical Marihuana Facilities permit pursuant to Ch. 833 and consistent with Ch. 1299 Medical Marihuana when located at least 1,000 feet away from a property containing a Medical Marihuana Provisioning Center, regardless of ownership of property or license; and at least 1,000 feet away from K-12 schools and libraries open to the public. These setback measurements are between nearest property lines, regardless of ownership of property or licensee.
- (41) State Licensed Adult Use Marihuana Retailers with an approved Adult Use Marihuana Establishment permit pursuant to Ch. 835 and consistent with Chapter 1299 Marihuana Facilities and Establishments when located at least 1,000 feet away from a property containing an Adult Use Marihuana Retailer, an Adult Use Marihuana Microbusiness, and a Medical Marihuana Provisioning Center; and at least 1,000 feet from K-12 schools and libraries open to the public. The setback measurements are between nearest property lines, regardless of ownership of property or licensee.

#### **1271.05 ERECTION OF POLES AND WIRES.**

No person shall erect poles or wires for telephone, telegraph, cable television or power distribution purposes within the boundaries of a C-7 Street-Level Retail District.

(Ord. 25-92. Passed 11-24-92; Ord. 08-2010. Passed 7-6-10.)

#### **1271.06 HEIGHT, WIDTH, LOT AREA, BUILDING COVERAGE, SIGN AND SITE PLAN REVIEW REQUIREMENTS.**

Uses provided for in this chapter are subject to the maximum height, width, lot area, building coverage, sign and site plan review requirements of a C-4 Central Business District.  
(Ord. 25-92. Passed 11-24-92; Ord. 08-2010. Passed 7-6-10.)

#### **1271.07 MIXED COMMERCIAL AND RESIDENTIAL USES.**

Commercial and residential uses may occupy the same building, provided that the residential use is limited in its entirety to the second level or higher of the building and meets the requirements of the Building and Housing Code and all State building and fire codes.

#### **1271.08 OFF-STREET PARKING AND LOADING.**

Off-street parking and loading requirements shall be in accordance with Chapter 1284, provided that in the case of mixed uses, the number of parking spaces shall equal the sum of the requirements for each use computed separately.  
(Ord. 25-92. Passed 11-24-92; Ord. 08-2010. Passed 7-6-10.)

#### **1271.09 CONFLICTS WITH STATE OR LOCAL BUSINESS LICENSING REQUIREMENTS OR REGULATIONS.**

Nothing in this chapter is intended or should be construed as a waiver of any State or local business licensing requirement or regulation.  
(Ord. 25-92. Passed 11-24-92; Ord. 08-2010. Passed 7-6-10.)

#### **1271.10 (REPEALED)**

*Editor's Note: Section 1271.10, as adopted by Ord. 25-92, passed 11-24-92 was repealed by Ord. 08-2010, passed 7-6-10.*

#### **1271.11 PROHIBITED USES.**

The following uses are prohibited in a C-7 Street-Level Retail District:

- (a) Adult businesses regulated by Chapter 1295;
- (b) Any form of transient dwelling, including, but not limited to, rooming houses, boarding houses, tourist homes, motels or hotels.
- (c) Retail sales of motor vehicles, motorcycles, recreational vehicles or motor homes, or the retail sale of motor vehicle or motorcycle parts.
- (d) Retail sales of large household appliances, such as washing machines, dryers, stoves, refrigerators, freezers or hot-water heaters.

(Ord. 25-92. Passed 11-24-92; Ord. 08-2010. Passed 7-6-10.)

## **CHAPTER 1272 I-1 LIGHT INDUSTRIAL DISTRICT**

1272.01 Applicable regulations.

1272.02 Purpose.

1272.03 Permitted uses.

1272.04 Height, yard, lot area, building coverage, sign, parking and loading and site plan review requirements.

### ***CROSS REFERENCES***

Zoning and planning in home rule cities - see M.C.L.A. Sec. 117.4i

Regulation of location of trades, buildings and uses by local authorities - see M.C.L.A. Sec. 125.581

Regulation of buildings; authority to zone - see M.C.L.A. Sec. 125.582

Regulation of congested areas - see M.C.L.A. Sec. 125.583

Uses of land or structures not conforming to ordinances; powers of legislative bodies; acquisition of property - see M.C.L.A. Sec. 125.583a

Yard exceptions within industrial districts - see P. & Z. 1278.05

Signs in I Districts - see P. & Z. 1296.39, 1296.40

Rental housing - see B.R. & T. Ch. 842

### **1272.01 APPLICABLE REGULATIONS.**

The regulations set forth in this chapter, or set forth elsewhere in this Zoning Code, when referred to in this chapter, are the district regulations of the I-1 Light Industrial District. (Ord. 36-84. Passed 12-18-84.)

### **1272.02 PURPOSE.**

The I-1 Light Industrial District is intended to accommodate those industrial uses that generate a minimum of noise, glare, odors, dust, vibration, air and water pollution, fire and safety hazards, the emission of any potentially harmful or obnoxious matter or radiation or any other nuisance characteristics. It is established as one in which the principal use of the land is for industrial activities wholly compatible with all other uses permitted in this District, commercial establishments not engaging in retail sales and service establishments which, if doing retail business, are of the type not generally requiring the customer to call at the place of business. (Ord. 36-84. Passed 12-18-84.)

### **1272.03 PERMITTED USES.**

In an I-1 Light Industrial District, a building or premises shall be used only for the following purposes:

- (a) Any use permitted in the C-4 Central Business District, except that after the passage of this Zoning Code (Ordinance 36-84, passed December 18, 1984), no new dwelling may be erected and no existing structure may be converted for residential purposes in the I-1 District;
- (b) Bottling works;
- (c) Carting, express or hauling yards;
- (d) Contractor's yards;
- (e) Coal, coke or wood yards;

- (f) Essential service structures;
- (g) Assembly and manufacture, from prefabricated parts, of household appliances, electronic products and similar products or the processing or assembly of parts for production of finished equipment;
- (h) Lumber yards or millwork plants;
- (i) Petroleum storage, but only after the location and treatment of the premises have been approved by the Fire Chief and the State Fire Marshal;
- (j) Fruit and food processing and storage;
- (k) Sporting goods and athletic equipment manufacture;
- (l) Truck or transfer terminal or freight houses;
- (m) Utilities;
- (n) Warehousing and wholesale establishments;
- (o) Industrial manufacturing plants where the process of manufacturing or the treatment of materials is such that only a nominal amount of dust, gas, odor, smoke or noise is emitted;
- (p) Storage yards for motor vehicles for salvage, including the removal of parts therefrom. Such use shall be screened from exterior view by a solid, well maintained fence which is eight feet in height, and vehicles shall not be stored in a manner exceeding the height of the fence. Such fence shall be setback a minimum of fifteen feet from all property lines and the yard shall be secured during nonoperational hours.
- (q) Normal accessory uses and structures.
- (r) State Licensed Medical Marihuana Growers, Processors, Secure Transporters, and Safety Compliance Facilities with an approved Medical Marihuana Facilities permit pursuant to Ch. 833 and consistent with Ch. 1299 Medical Marihuana where located at least 1,000 feet away from properties, as measured between nearest property lines, containing any of the following uses:
  - 1) Religious assembly uses;
  - 2) Private or public schools;
  - 3) Public parks;
  - 4) Libraries open to the public; and
  - 5) Residential ('R') zoned property.
- (s) State Licensed Medical Marihuana Provisioning Center located on the same property with an approved State Licensed Medical Marihuana Grower and Processor facilities (co-location); and is located at least 1,000 feet away from K-12 schools and libraries open to the public. This setback measurement is between nearest property lines.
- (t) State Licensed Medical Marihuana Provisioning Centers located in a building where a retail use was in operation at the date of this ordinance adoption and is located at least 1,000 feet away from K-12 schools and libraries open to the public. This setback measurement is between nearest property lines.
- (u) State Licensed Adult Use Growers, Processors, Secure Transporters and Safety Compliance Establishments with an approved Adult Use Marihuana Establishment permit pursuant to Ch.835 and consistent with Ch. 1299 Marihuana Facilities and Establishments when located at least 1,000 feet away from properties, as measured between nearest property lines, containing any of the following uses:
  - 1) Religious assembly uses;
  - 2) Private or public schools;
  - 3) Public parks;

4) Libraries open to the public;

6) Any Residential ('R') zoned property.

(v) State Licensed Adult Use Marihuana Retailers with an approved Adult Use Marihuana Establishment permit pursuant to Ch. 835 and consistent with Chapter 1299 Marihuana Facilities and Establishments when collocated with a Medical Marihuana Grower and Processor; located at least 1,000 feet away from a property containing an Adult Use Marihuana Retailer, an Adult Use Marihuana Microbusiness, and a Medical Marihuana Provisioning Center; and at least 1,000 feet from K-12 schools and libraries open to the public. The setback measurements are between nearest property lines, regardless of ownership of property or licensee.

1) This subsection only applies to those active Medical Marihuana Provisioning Center Facility Applications submitted prior to the date of this ordinance adoption.

#### **1272.04 HEIGHT, YARD, LOT AREA, BUILDING COVERAGE, SIGN AND PARKING AND LOADING AND SITE PLAN REVIEW REQUIREMENTS.**

The uses provided for in Section 1272.03 are subject to the following requirements:

- (a) Maximum height, as required by Chapter 1276;
- (b) Yards, as required by Chapter 1278;
- (c) Lot area, as required by Chapter 1282;
- (d) Building coverage, as required by Chapter 1280;
- (e) Signs, as required by Chapter 1296;
- (f) Off -street parking and loading, as required by Chapter 1284; and
- (g) Site plan review, as required by Chapter 1294.

## CHAPTER 1274 I-2 HEAVY INDUSTRIAL DISTRICT

- 1274.01 Applicable regulations.
- 1274.02 Dwellings prohibited.
- 1274.03 Permitted uses.
- 1274.04 Special requirements.
- 1274.05 Height, yard, lot area, building coverage, sign, parking and loading and site plan review requirements.

### ***CROSS REFERENCES***

Zoning and planning in home rule cities - see M.C.L.A. Sec. 117.4i  
Regulation of location of trades, buildings and uses by local authorities - see M.C.L.A. Sec. 125.581  
Regulation of buildings; authority to zone - see M.C.L.A. Sec. 125.582  
Regulation of congested areas - see M.C.L.A. Sec. 125.583  
Uses of land or structures not conforming to ordinances; powers of legislative bodies; acquisition of property - see M.C.L.A. Sec. 125.583a  
Yard exceptions within industrial districts - see P. & Z. 1278.05  
Signs in I Districts - see P. & Z. 1296.39, 1296.40  
Rental housing - see B.R. & T. Ch. 842

### **1274.01 APPLICABLE REGULATIONS.**

The regulations set forth in this chapter, or set forth elsewhere in this Zoning Code, when referred to in this chapter, are the district regulations of the I-2 Heavy Industrial District. (Ord. 36-84. Passed 12-18-84.)

### **1274.02 DWELLINGS PROHIBITED.**

In an I-2 Heavy Industrial District, no building shall be converted or erected for dwelling purposes. (Ord. 36-84. Passed 12-18-84.)

### **1274.03 PERMITTED USES.**

In an I-2 Heavy Industrial District any building or premises may be used for any purpose not in conflict with any of the provisions of these Codified Ordinances regulating nuisances, this includes the following:

- (a) State Licensed Medical Marihuana Growers, Processors, Secure Transporters, and Safety Compliance Facilities having an approved Medical Marihuana Facilities permit pursuant to Ch. 833 and consistent with Ch. 1299 Medical Marihuana where located at least 1,000 feet away from properties, measured between nearest property lines, containing any of the following uses:
  - 1) Religious assembly uses;
  - 2) Private or public schools;
  - 3) Public parks;
  - 4) Libraries open to the public; and

5) Residential ('R') zoned property.

(b) State Licensed Medical Marihuana Provisioning Center located on the same property with an approved State Licensed Medical Marihuana Grower and Processor facilities (co-location); and is located at least 1,000 feet away from K-12 schools and libraries open to the public. This setback measurement is between nearest property lines.

(c) State Licensed Medical Marihuana Provisioning Centers located in a building where a retail use was in operation at the date of this ordinance adoption and is located at least 1,000 feet away from K-12 schools and libraries open to the public. This setback measurement is between nearest property lines.

(d) State Licensed Adult Use Growers, Processors, Secure Transporters and Safety Compliance Establishments with an approved Adult Use Marihuana Establishment permit pursuant to Ch. 835 and consistent with Ch. 1299 Marihuana Facilities and Establishments when located at least 1,000 feet away from properties, as measured between nearest property lines, containing any of the following uses:

- 1) Religious assembly uses;
- 2) Private or public schools;
- 3) Public parks;
- 4) Libraries open to the public;
- 5) Any Residential ('R') zoned property.

(e) State Licensed Adult Use Marihuana Retailers with an approved Adult Use Marihuana Establishment permit pursuant to Ch. 835 and consistent with Chapter 1299 Marihuana Facilities and Establishments when collocated with a Medical Marihuana Grower and Processor; located at least 1,000 feet away from a property containing an Adult Use Marihuana Retailer, an Adult Use Marihuana Microbusiness, and a Medical Marihuana Provisioning Center; and at least 1,000 feet from K-12 schools and libraries open to the public. The setback measurements are between nearest property lines, regardless of ownership of property or licensee.

1) This subsection only applies to those active Medical Marihuana Provisioning Center Facility Applications submitted prior to the date of this ordinance adoption.

#### **1274.04 SPECIAL REQUIREMENTS.**

No building or occupancy permit shall be issued for any of the following uses until the location of such use is approved by the City Commission after a report regarding the effect of such use upon the safety and welfare of adjacent developments and its relationship to streets, sewers and other utilities is made by the Fire Chief, the City Engineer and the State Fire Marshal:

- (a) Acid manufacture;
- (b) Cement, lime or gypsum manufacture;
- (c) Distillation of bones or rendering plants;
- (d) Fertilizer manufacture;
- (e) Gas manufacture;
- (f) Garbage, offal or dead animal's reduction, dumping or incinerating;



- (g) Smelting plants;
  - (h) Stockyards or slaughter of animals;
  - (i) Distilleries; and
  - (j) Wholesale storage of gasoline or other similar fuels or chemicals.
- (Ord. 36-84. Passed 12-18-84.)

**1274.05 HEIGHT, YARD, LOT AREA, BUILDING COVERAGE, SIGN, PARKING AND LOADING AND SITE PLAN REVIEW REQUIREMENTS.**

The uses provided for in this chapter are subject to the following requirements:

- (a) Maximum height, as required by Chapter 1276;
- (b) Yards, as required by Chapter 1278;
- (c) Lot area, as required by Chapter 1282;
- (d) Building coverage, as required by Chapter 1280;
- (e) Signs, as required by Chapter 1296;
- (f) Off-street parking and loading, as required by Chapter 1284; and
- (g) Site plan review, as required by Chapter 1294.

## CHAPTER 1299 ~~MEDICAL-MARIHUANA~~ FACILITIES AND ESTABLISHMENTS

1299.01 Purpose

1299.02 Authority

1299.03 License, Permits, Application, and Fee & Process

1299.04 Non-Conforming Uses~~Locations & Standards~~

1299.05 Locational Standards

~~Prohibited Areas & Setbacks~~

1299.06 Development and Operational Standards

Signage

### 1299.01 PURPOSE

The purpose of this chapter is to implement the provisions of State legislation PA 283 of 2008 ‘Medical Marihuana Act’ (MMA), ~~and~~ PAs 281, 282, & 282 of 2016 ‘Medical Marihuana Facilities Licensing Act’ (MMFLA) and, subsequent amendments, and the Michigan Regulation and Taxation of Marihuana Act of 2018 (MRTMA) for establishing local zoning authority for the permitting of adult use marihuana establishments and medical marihuana ~~licenses and~~ facilities. Further, the purpose of this chapter also provides:

- (a) A process for the City to legally facilitate the development of adult use marihuana establishments and medical marihuana facilities which are otherwise illegal under federal law.
- (b) A procedure for growing, processing, testing, transporting, and selling adult use marihuana and medical marihuana for qualified persons and selling adult use marihuana as permitted under the MRTMA.
- (c) Zoning authority for the protection and preservation of public safety, welfare, and property value; and ensuring consistency with the future land use map of the Master Plan.
- (d) A licensing and taxing authority to the City to defray costs to additional public safety, administrative, and enforcement with the result of facilitating development of adult use marihuana establishments and medical marihuana facilities.
- (e) Additional economic industry and benefit to the community.

### 1299.02 AUTHORITY

With the adoption of PA 283 of 2008 and PAs 281, 282, & 282 of 2016 and subsequent amendments and the Michigan Regulation and Taxation of Marihuana Act of 2018, the City of Battle Creek has legislative authority to establish zoning regulations, application processes and associated fees, and enforcement abilities for ~~medical~~-marihuana development without penalty consistent with the state laws.

### 1299.03 LICENSE AND PERMIT REQUIRED; APPLICATION; FEE;

- (a) Licenses Required. No person or entity shall operate an medical-adult use marihuana establishment or medical marihuana facility without receiving the following licenses:
  - (1) An approved ~~medical marihuana~~-operating license from the State;
  - (2) An approved ~~medical marihuana~~-permit from the City pursuant to Chapter 833and/or Chapter 835-Medical Marihuana; and

- (b) Permit Type. No person or entity shall operate an ~~an medical adult use~~ medical marihuana establishment or medical marihuana facility without receiving the following permits where required:
- (1) Approved Building permit & Occupancy Permit. All ~~medical~~-marihuana establishments and facilities shall require an approved Building permit showing compliance with applicable zoning and building codes. A Certificate of Occupancy shall be issued once all applicable inspections are show satisfactory compliance with all zoning and building codes.
  - (2) Approved Site Plan Application. Certain ~~medical~~-marihuana establishments and facilities shall require gaining an approved Site Plan Application pursuant to Chapter 1294 Site Plan Review.
  - (3) Approved Special Use Permit, if required. Certain medical marihuana facilities shall require an approved Special Use Permit pursuant to Chapter 1290 Special Land Uses.

#### **1299.04 NON-CONFORMING USES**

- (a) Medical marihuana dispensaries and growing operations which may have been established under the auspices of the 2008 MMA but have not gained approved permits from the City shall not be considered legally non-conforming. Owners of such dispensaries or growing operations shall cease operation, or if applicable, obtain required permit pursuant to subsection Ch. 1299.03.
- (b) Medical marihuana dispensaries and growing operations which may have been established under the auspices of the 2008 MMA and have approved permits from the City are considered legally non-conforming and may continue operating pursuant to Chapter 1288 Nonconforming Uses and Structures.

#### **1299.05 LOCATIONAL STANDARDS**

- (a) Pursuant to the 2016 MMFLA, 2018 MRTMA, and subsection 1299.03, all types of state licensed ~~medical~~ marihuana establishments and facilities are allowed in zoning districts established by this chapter and within specific zoning districts provided in this zoning ordinance.
- (b) The official updated '~~Medical~~-Marihuana Maps' of the City of Battle Creek will be maintained by the City's Planning Division.
- (c) Co-location of Licenses. Where State Licensed Medical Marihuana Grower, Processor, and Provisioning Center are co-located on a single property, the usable floor area of the Provisioning Center shall not exceed 10% of the gross square footage of the overall combined areas of the growing and provisioning ~~licensing~~ areas.
- (d) Only one State Licensed Provisioning Center, Microbusiness, or Retailer shall be allowed on a property within the area defined by property lines except for colocations at same locations by the same licensee holder.

#### **1299.06 DEVELOPMENT AND OPERATIONAL STANDARDS**

The following regulations are applicable to all State Licensed ~~medical~~-marihuana establishments and facilities.

- (a) ~~Medical~~ Marihuana Location. Except when being transporting by State Licensed Security Transporter, all ~~medical~~-marihuana shall be located entirely inside a building having permanent foundation, walls, and roof [JHS1].
- (1) Notwithstanding subsection (a), a roof on grow ~~establishments or facilities~~ may consist of a sturdy transparent material, such as glass, to allow sunlight into the growing areas of the building. If such transparent material is utilized, it must be fully covered with a non-transparent material between dusk and dawn that prevents interior lighting from escaping through the roof.
- (2) Walls enclosing ~~Medical~~-Marihuana Growing ~~establishments or facilities~~ ~~operations~~ shall be constructed of a structurally-supportive load bearing brick or masonry construction from grade to eight feet in height [JHS2].
- (b) Signage. Notwithstanding Chapter 1296 Signs, only one sign per street frontage shall be permitted for any state licensed ~~medical~~ marihuana ~~establishment or~~ facility. Neon lighted signs are prohibited.
- (c) Fence. Use of barb wire outside of the Industrial districts is prohibited.
- (d) Window glass on ground floor levels must be transparent and free from film or other materials that block visibility. Interior shades, curtains, etc. are permitted.

City of Battle Creek  
Medical Marihuana Facilities and Adult Use Establishments Provisions  
Draft to Planning Commission  
August 24, 2019

CLEAN VERSION

**Black font – Marihuana related verbiage**

**Gray font – non-marihuana related verbiage for context**

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**CHAPTER 1230.06 DEFINITIONS**

- (42A) “Marihuana, Adult Use Establishment” means a marihuana grower, marihuana safety compliance facility, marihuana processor, marihuana microbusiness, marihuana retailer, marihuana secure transporter, or any other type of marihuana-related business licensed to operate by the marijuana regulatory agency as authorized by the Michigan Regulation and Taxation of Marihuana Act (2018).
- (a) “Marihuana Grower” means a person licensed to cultivate marihuana and sell or otherwise transfer marihuana to marihuana establishments.
- (b) “Marihuana Microbusiness” means a person licensed to cultivate not more than 150 marihuana plants; process and package marihuana; and sell or otherwise transfer marihuana to individuals who are 21 years of age or older or to a marihuana safety compliance facility, but not to other marihuana establishments.
- (c) “Marihuana Processor” means a person licensed to obtain marihuana from marihuana establishments; process and package marihuana; and sell or otherwise transfer marihuana to marihuana establishments.
- (d) “Marihuana Retailer” means a person licensed to obtain marihuana from marihuana establishments and to sell or otherwise transfer marihuana to marihuana establishments and to individuals who are 21 years of age or older.
- (e) “Marihuana Secure Transporter” means a person licensed to obtain marihuana from marihuana establishments in order to transport marihuana to marihuana establishments.
- (f) “Marihuana Safety Compliance Facility means a person licensed to test marihuana, including certification for potency and the presence of contaminants.
- (42B) Marihuana, Medical Facility. A State-licensed commercial entity operating pursuant to the Medical Marihuana Facilities Licensing Act (2016).
- (a) Medical Marihuana Grower or Grow Facility means a licensee that is a commercial entity located in this State and licensed pursuant to the MMFLA that cultivates, dries, trims, or cures and packages marihuana for sale to a processor or provisioning center.
- (b) Processor and Medical Marihuana Processing Facilities means a licensee that is a commercial entity and facility located in this State and licensed pursuant to the MMFLA that purchases marihuana from a grower and that extracts resin from the marihuana or creates a marihuana-infused product for sale and transfer in packaged form to a provisioning center.

(c) Medical Marihuana Provisioning Center means a licensee and facility that is a commercial entity located in this State and licensed pursuant to the MMFLA that purchases marihuana from a grower or processor and sells, supplies, or provides marihuana to registered qualifying patients, directly or through their registered primary caregivers. The term includes any commercial property where marihuana is sold at retail to registered qualifying patients or registered primary caregivers. A noncommercial location used by a primary caregiver to assist a qualifying patient connected to the caregiver through the marihuana registration process of the Department of Licensing and Regulation in accordance with the Michigan Medical Marihuana Act will not be a provisioning center for purposes of the Licensing Act.

(d) Medical Marihuana Safety Compliance Facility means a licensee and facility that is a commercial entity and licensed pursuant to the MMFLA that receives marihuana from a marihuana facility or registered primary caregiver, tests it for contaminants and for tetrahydrocannabinol (THC) and other cannabinoids, returns the test results, and may return the marihuana to the facility.

(e) Medical Marihuana Secure Transporter means a licensee and facility that is a commercial entity located in this State and licensed pursuant to the MMFLA that stores marihuana and transports it between marihuana facilities for a fee.

## **CHAPTER 1262 C-2 GENERAL BUSINESS DISTRICTS**

1262.01 Applicable regulations.

1262.02 Purpose.

1262.03 Permitted uses.

1262.04 Prohibited uses.

1262.05 Height, yard, lot area, building coverage, sign and parking and loading and site plan review requirements.

### ***CROSS REFERENCES***

Zoning and planning in home rule cities - see M.C.L.A. Sec. 117.4i

Regulation of land development and establishment of districts; provisions; uniformity of regulations; designations; limitations - see M.C.L.A. Sec. 125.3201

Regulation of buildings; authority to zone - see M.C.L.A. Sec. 125.3202

Uses of land or structures not conforming to ordinances; powers of legislative bodies; acquisition of property - see M.C.L.A. Sec. 125.3208

Yard exceptions within commercial districts - see P. & Z. 1278.05

Signs in the C-2 Districts - see P. & Z. 1296.37

Rental housing - see B.R. & T. Ch. 842

### **1262.01 APPLICABLE REGULATIONS.**

The regulations set forth in this chapter, or set forth elsewhere in this Zoning Code, when referred to in this chapter, are the regulations of the C-2 General Business District.  
(Ord. 36-84. Passed 12-18-84.)

### **1262.02 PURPOSE.**

The C-2 General Business District is established to accommodate those retail and business service activities that serve the whole community and the metropolitan region. Such activities require land and structure uses that are typically compact and densely grouped, generating a large volume of pedestrian and vehicular traffic.

It is the purpose of these regulations to permit the establishment of a wide variety of business enterprises and to provide flexibility for adaptation to new merchandising techniques.

(Ord. 36-84. Passed 12-18-84.)

### **1262.03 PERMITTED USES.**

In a C-2 General Business District, a building or premises shall be used only for the following purposes:

- (a) Any use permitted in the C-1 Neighborhood Commercial District;
- (b) Restaurants and eating establishments, including drive-ins;
- (c) Dyeing and cleaning works, provided that the cleaning fluid used has a base which is of a nonexplosive material;
- (d) Hotels and motels;
- (e) Laundries;
- (f) Printing shops;

- (g) Recreation and amusement activities when enclosed within a building;
- (h) Theaters;
- (i) Radio broadcasting and telecasting stations, studios, offices and telecommunications exchange buildings;
- (j) Veterinary or animal hospitals, provided that no such building, kennel or exercise runway is closer than 100 feet to any residence or Residential District;
- (k) Accessory buildings and uses which are customarily incidental to the uses set forth in this section; and
- (l) Boarding houses for more than ten individuals.
- (m) State Licensed Medical Marihuana Provisioning Centers with an approved Medical Marihuana Facilities permit pursuant to Ch. 833 and consistent with Ch. 1299 Medical Marihuana when located at least 1,000 feet away from a property containing a Medical Marihuana Provisioning Center; and at least 1,000 feet away from K-12 schools and libraries open to the public. These setback measurements are between nearest property lines, regardless of ownership of property or licensee.
- (n) State Licensed Adult Use Marihuana Retailers with an approved Adult Use Marihuana Establishment permit pursuant to Ch. 835 and consistent with Chapter 1299 Marihuana Facilities and Establishments when located at least 1,000 feet away from a property containing an Adult Use Marihuana Retailer, an Adult Use Marihuana Microbusiness, and a Medical Marihuana Provisioning Center; and at least 1,000 feet from K-12 schools and libraries open to the public. The setback measurements are between nearest property lines, regardless of ownership of property or licensee.
- (o) State Licensed Adult Use Microbusinesses with an approved Adult Use Marihuana Establishment permit pursuant to Chapter 835 and consistent with Chapter 1299 Marihuana Facilities and Establishments when meeting the following locational specifications:
  - (1) The property at which the Microbusiness will be located shall be at least 1,000 feet away from any property containing an Adult Use Marihuana Retailer, an Adult Use Marihuana Microbusiness, and a Medical Marihuana Provisioning Center; setbacks measured between nearest property lines, regardless of ownership of property or licensee; and
  - (2) The property at which the Microbusiness will be located shall be at least 1,000 feet from K-12 schools and libraries open to the public, setbacks measured between nearest property lines, regardless of ownership of property or licensee; and
  - (3) The property at which the Microbusiness will be located shall not abut a Residential ('R') zoning district or a property with a residential use.

#### **1262.04 PROHIBITED USES.**

The following uses shall specifically be prohibited in the C-2 General Business District:

- (a) Sale, rental or display of motor vehicles, trailers or boats; and
- (b) Manufacturing and processing establishments not selling their entire output at retail on the premises.

(Ord. 36-84. Passed 12-18-84.)



**1262.05 HEIGHT, YARD, LOT AREA, BUILDING COVERAGE, SIGN, PARKING AND LOADING AND SITE PLAN REVIEW REQUIREMENTS.**

The uses provided for in Section 1262.03 are subject to the following requirements:

- (a) Maximum height, as required by Chapter 1276;
- (b) Yards, as required by Chapter 1278;
- (c) Lot area, as required by Chapter 1282;
- (d) Building coverage, as required by Chapter 1280;
- (e) Signs, as required by Chapter 1296;
- (f) Off-street parking and loading, as required by Chapter 1284; and
- (g) Site plan review, as required by Chapter 1294.

## **CHAPTER 1264 C-3 INTENSIVE BUSINESS DISTRICTS**

1264.01 Applicable regulations.

1264.02 Purpose.

1264.03 Permitted uses.

1264.04 Height, yard, lot area, building coverage, sign and parking and loading and site plan review requirements.

### ***CROSS REFERENCES***

Zoning and planning in home rule cities - see M.C.L.A. Sec. 117.4i

Regulation of location of trades, buildings and uses by local authorities - see M.C.L.A. Sec. 125.581

Regulation of buildings; authority to zone - see M.C.L.A. Sec. 125.582

Regulation of congested areas - see M.C.L.A. Sec. 125.583

Uses of land or structures not conforming to ordinances; powers of legislative bodies; acquisition of property - see M.C.L.A. Sec. 125.583a

Commercial businesses - see B.R. & T. Ch. 822

Yard exceptions within commercial districts - see P. & Z. 1278.05

Signs in the C-3 Districts - see P. & Z. 1296.37, 1296.39

Rental housing - see B.R. & T. Ch. 842

### **1264.01 APPLICABLE REGULATIONS.**

The regulations set forth in this chapter, or set forth elsewhere in this Zoning Code, when referred to in this chapter, are the district regulations of the C-3 Intensive Business District. (Ord. 36-84. Passed 12-18-84.)

### **1264.02 PURPOSE.**

The C-3 Intensive Business District is intended to accommodate those business activities that typically generate large volumes of motor vehicle traffic, that require large areas of off-street parking, that produce, in varying amounts, noise, glare, odors, dust, hazards and that are potential obstacles to an efficient and convenient general business district. (Ord. 36-84. Passed 12-18-84.)

### **1264.03 PERMITTED USES.**

In a C-3 Intensive Business District, a building or premises shall be used only for the following purposes:

- (a) Any use permitted in the C-2 General Business District;
- (b) Any retail business;
- (c) Motor vehicle, trailer and boat display, sales and rental, provided that the space used therefor is paved and adequately maintained so as to provide a durable, smooth and dust-free surface, and is so graded and provided with adequate drainage facilities so that all collected surface water is effectively carried away from the site;
- (d) Motor vehicle repairing, in which all storage of vehicles, as well as all activities, are conducted within a permanent, fully enclosed building;
- (e) Drive-in businesses, excluding drive-in theaters, where service may be in automobiles or outdoors, but with all other activities carried on within a building;

- (f) Second hand stores; and
- (g) Freezer lockers for retail business only.
- (h) State Licensed Medical Marihuana Secure Transporters and Safety Compliance Facilities with an approved Medical Marihuana Facilities permit pursuant to Ch. 833 and consistent with Ch. 1299 Medical Marihuana where located at least 1,000 feet away from properties, as measured between nearest property lines, containing any of the following uses:
  - 1) Religious assembly uses;
  - 2) Private or public schools;
  - 3) Public parks;
  - 4) Libraries open to the public;
  - 5) Any property with a residential use; and
  - 6) Any Residential ('R') zoned property.
- (i) State Licensed Adult Use Secure Transporters and Safety Compliance Establishments with an approved Adult Use Marihuana Establishment permit pursuant to Ch. 835 and consistent with Ch. 1299 Marihuana Facilities and Establishments when located at least 1,000 feet away from properties, as measured between nearest property lines, containing any of the following uses:
  - 1) Religious assembly uses;
  - 2) Private or public schools;
  - 3) Public parks;
  - 4) Libraries open to the public;
  - 5) Any property with a residential use; and
  - 6) Any Residential ('R') zoned property.

**1264.04 HEIGHT, YARD, LOT AREA, BUILDING COVERAGE, SIGN, PARKING AND LOADING AND SITE PLAN REVIEW REQUIREMENTS.**

The uses provided for in Section 1264.03 are subject to the following requirements:

- (a) Maximum height, as required by Chapter 1276;
- (b) Yards, as required by Chapter 1278;
- (c) Lot area and lot width, as required by Chapter 1282;
- (d) Building coverage, as required by Chapter 1280;
- (e) Signs, as required by Chapter 1296;
- (f) Off-street parking and loading, as required by Chapter 1284; and
- (g) Site plan review, as required by Chapter 1294.

## CHAPTER 1268 C-5 PLANNED SHOPPING DISTRICTS

- 1268.01 Applicable regulations.
- 1268.02 Plan required.
- 1268.03 Permitted uses.
- 1268.04 Procedure.
- 1268.05 Review and approval.
- 1268.06 Delay in construction.
- 1268.07 Off-street parking and loading.
- 1268.08 Height, yard, lot area, building coverage, sign and site plan review requirements.

### ***CROSS REFERENCES***

Zoning and planning in home rule cities - see M.C.L.A. Sec. 117.4i

Regulation of location of trades, buildings and uses by local authorities - see M.C.L.A. Sec. 125.581

Regulation of buildings; authority to zone - see M.C.L.A. Sec. 125.582

Regulation of congested areas - see M.C.L.A. Sec. 125.583

Uses of land or structures not conforming to ordinances; powers of legislative bodies; acquisition of property - see M.C.L.A. Sec. 125.583a

Yard exceptions within commercial districts - see P. & Z. 1278.05

Signs in the C-5 District - see P. & Z. 1296.37

Rental housing - see B.R. & T. Ch. 842

### **1268.01 APPLICABLE REGULATIONS.**

The regulations set forth in this chapter, or set forth elsewhere in this Zoning Code, when referred to in this chapter, are the district regulations of the C-5 Planned Shopping District. (Ord. 36-84. Passed 12-18-84.)

### **1268.02 PLAN REQUIRED.**

The C-5 Planned Shopping District shall be designed and developed as a unit according to an improved plan, as provided in this chapter, in order to provide for retail shopping facilities of integrated design in appropriate locations to serve residential neighborhoods. (Ord. 36-84. Passed 12-18-84.)

### **1268.03 PERMITTED USES.**

In a C-5 Planned Shopping District, a building or premises shall be used only for the retail sale of merchandise, service facilities, parking areas and similar facilities ordinarily considered to be an indispensable function of residential neighborhoods, as follows:

- (a) No plan shall be favorably considered unless it contains at least one retail establishment primarily selling food and other convenience and household goods for consumption or utilization off the premises. It is the intent of this requirement to provide for a grocery store or supermarket to service the needs of adjacent residential areas.
- (b) Retail stores, such as drug, variety, apparel and furniture, nurseries and hardware stores are permitted.

- (c) Restaurants limited to food service only, excluding drive-in establishments and establishments in which the principal activity is the dispensing of alcoholic beverages, are permitted.
- (d) Residential uses, including transient facilities, are prohibited.
- (e) Services generally required by a family at intervals of a week or less, such as dry-cleaning, laundromats, shoe repair, barber and beauty shops and gasoline service stations, are restricted as follows:
  - (1) Services shall be limited to passenger vehicles and trucks not exceeding one and one-half tons capacity, and all services except those limited to pump islands shall be carried on within a totally enclosed building.
  - (2) Services and repairs shall exclude those activities considered to be heavy repairs, including, but not limited to, the changing of chassis, bodies or motor trains, body repairs and painting. Included in these allowable services are muffler repair or replacement shops, oil change and tune-up facilities and tire and battery stores.
- (f) State Licensed Medical Marihuana Provisioning Centers with an approved Medical Marihuana Facilities permit pursuant to Ch. 833 and consistent with Ch. 1299 Medical Marihuana when located at least 1,000 feet away from a property containing a Medical Marihuana Provisioning Center; and at least 1,000 feet away from K-12 schools and libraries open to the public. These setback measurements are between nearest property lines, regardless of ownership of property or licensee.
- (g) State Licensed Adult Use Marihuana Retailers with an approved Adult Use Marihuana Establishment permit pursuant to Ch. 835 and consistent with Chapter 1299 Marihuana Facilities and Establishments when located at least 1,000 feet away from a property containing an Adult Use Marihuana Retailer, an Adult Use Marihuana Microbusiness, and a Medical Marihuana Provisioning Center; and at least 1,000 feet from K-12 schools and libraries open to the public. The setback measurements are between nearest property lines, regardless of ownership of property or licensee.
- (h) State Licensed Adult Use Microbusiness with an approved Adult Use Marihuana Establishment permit pursuant to Chapter 835 and consistent with Chapter 1299 Marihuana Facilities and Establishments when meeting the following locational specifications:
  - (1) The property at which the Microbusiness will be located shall be at least 1,000 feet away from any property containing an Adult Use Marihuana Retailer, an Adult Use Marihuana Microbusiness, and a Medical Marihuana Provisioning Center; setbacks measured between nearest property lines, regardless of ownership of property or licensee; and
  - (2) The property at which the Microbusiness will be located shall be at least 1,000 feet from K-12 schools and libraries open to the public, setbacks measured between nearest property lines, regardless of ownership of property or licensee; and
  - (3) The property at which the Microbusiness will be located shall not abut a residential zoning district or a residential use.

#### **1268.04 PROCEDURE.**

The owner of a tract of land which comprises five acres or more may submit to the City Commission a plan for the use and development of such tract for the purpose of, and meeting the requirements set forth in, this chapter. Such plan shall be accompanied by evidence

concerning the feasibility of the project and its effect on surrounding property and other physical conditions, which plan and supporting evidence shall include each of the following:

(a) A site plan defining the areas to be developed for buildings, parking, landscaping, pedestrian and vehicular circulation, points of ingress and egress, including service roads, where required, the location and height of walls, the provision of loading spaces, the location, size and number of signs and design techniques utilized to protect adjacent land uses and zoning districts. Such site plan shall include the existing and proposed topography of the site, either by two-foot contour intervals or spot elevations, vegetation on site, provisions for screening of refuse containers, exterior lighting plan, and provisions for proposed utilities and storm drainage collection and disposal.

(b) A report on the market to be served, the types and amount of service needed and general economic justification therefor;

(c) A traffic survey or study prepared by qualified experts which, among other things, indicates the total traffic impact of the proposed shopping center on adjacent streets and the anticipated points of origin, direction and amount of traffic flow to and from the shopping center; and

(d) A statement of financial responsibility to assure the construction of the planned shopping center is in accordance with the plan and the requirements of this chapter.

(Ord. 36-84. Passed 12-18-84.)

#### **1268.05 REVIEW AND APPROVAL.**

Before any action is taken thereon by the City Commission, the proposed planned shopping center plan, together with the required statements and supplementary information, shall be referred to the Planning Commission for study and report. The recommendation of the Planning Commission shall then be submitted to the City Commission for official adoption or disapproval. In making its report, the Planning Commission shall state the reasons for its recommendation and in doing so shall consider the economic feasibility of the district and its effect on the health, safety and general welfare of the residents, traffic and the values of surrounding property.

(Ord. 36-84. Passed 12-18-84.)

#### **1268.06 DELAY IN CONSTRUCTION.**

If the construction of the shopping center is not commenced within two years of the date of approval by the City Commission, the district shall revert to the same zoning classification that existed prior to approval of the C-5 District, and the zoning regulations of such former district shall thereupon be in full force and effect.

(Ord. 36-84. Passed 12-18-84.)

#### **1268.07 OFF-STREET PARKING AND LOADING.**

For each 1,000 square feet of gross floor area, there shall be provided five off-street parking spaces. Adequate provision for off-street loading and unloading of trucks and other vehicles shall also be shown on the plan.

(Ord. 36-84. Passed 12-18-84.)

#### **1268.08 HEIGHT, YARD, LOT AREA, BUILDING COVERAGE, SIGN AND SITE PLAN REVIEW REQUIREMENTS.**

The uses provided for in Section 1268.03 are subject to the following requirements:

- (a) Maximum height, as required by Chapter 1276;
  - (b) Yards, as required by Chapter 1278;
  - (c) Lot area, as required by Chapter 1282;
  - (d) Building coverage, as required by Chapter 1280;
  - (e) Signs, as required by Chapter 1296; and
  - (f) Site plan review, as required by Chapter 1294.
- (Ord. 36-84. Passed 12-18-84.)

## **CHAPTER 1270 C-6 MAJOR HIGHWAY INTERCHANGE BUSINESS DISTRICT**

- 1270.01 Applicable regulations.
- 1270.02 Purpose.
- 1270.03 Permitted uses.
- 1270.04 Site development requirements.

### ***CROSS REFERENCES***

Zoning and planning in home rule cities - see M.C.L.A. Sec. 117.4i  
Regulation of location of trades, buildings and uses by local authorities - see M.C.L.A. Sec. 125.581  
Regulation of buildings; authority to zone - see M.C.L.A. Sec. 125.582  
Regulation of congested areas - see M.C.L.A. Sec. 125.583  
Uses of land or structures not conforming to ordinances; powers of legislative bodies; acquisition of property - see M.C.L.A. Sec. 125.583a  
Signs in C-6 Districts - see P. & Z. 1296.37  
Rental housing - see B.R. & T. Ch. 842

### **1270.01 APPLICABLE REGULATIONS.**

The regulations set forth in this chapter, or set forth elsewhere in this Zoning Code, when referred to in this chapter, are the district regulations of the C-6 Major Highway Interchange Business District.

(Ord. 36-84. Passed 12-18-84.)

### **1270.02 PURPOSE.**

The C-6 Major Highway Interchange Business District is established to accommodate those specialized retail and business service activities herein specified that serve the whole community, as well as persons traveling on interstate highways, and typically may be grouped around a major interstate highway interchange (I-94) generating a considerable volume of vehicular traffic. It is the purpose of these regulations to permit the establishment of a limited variety of business enterprises and to provide flexibility for adaptation to new merchandising techniques as may develop, particularly where the use of motor vehicles is involved. In order to utilize the full potential effectiveness of this District, certain functions that would operate more effectively in other districts and that would interfere with the general business effectiveness of this District have been intentionally excluded. The uses permitted in this District shall be limited strictly to those uses mentioned in Section 1270.03.

(Ord. 36-84. Passed 12-18-84. )

### **1270.03 PERMITTED USES.**

In a C-6 Major Highway Interchange Business District, the following uses are permitted. However, all must be conducted wholly in a permanent, fully enclosed building, unless otherwise stated:

- (a) Retail establishments selling principally (ninety percent of total sales measured in dollar volume) new merchandise;
- (b) Personal and business services, excluding processing of physical materials;
- (c) Passenger terminals;



- (d) Offices, banks and public buildings;
- (e) Restaurants and drive-in businesses, excluding drive-in theaters, where service may be in automobiles or outdoors;
- (f) Motels or hotels, subject to the following conditions:
  - (1) Minimum lot area. The minimum lot area shall be one acre with a minimum width of 150 feet, provided that there shall be not less than 800 square feet of lot area for each guest unit.
  - (2) Lighting. No lighting shall have a source of illumination visible outside of the boundaries of the lot. Such lighting shall, in no way, impair safe movement of traffic on any street or highway. No lighting shall shine directly on adjacent properties.
- (g) Essential services;
- (h) Golf driving ranges and miniature golf courses under the following conditions:
  - (1) No lighting shall have a source of illumination visible outside of the boundaries of the lot from a residential area and no lighting shall shine directly on adjacent properties.
  - (2) Parking areas shall be screened from adjacent residences to prevent headlight glare.
  - (3) Access by motor vehicles to such lot by way of minor or residential streets is permitted, provided that such streets are paved with a bituminous or concrete surface meeting the specifications of the City Engineer.
- (i) Indoor amusement and entertainment, including, but not limited to, movie theaters, roller skating rinks, bingo, soccer and hockey.
- (j) **State Licensed Medical Marihuana Provisioning Centers with an approved Medical Marihuana Facilities permit pursuant to Ch. 833 and consistent with Ch. 1299 Medical Marihuana when located at least 1,000 feet away from a property containing a Medical Marihuana Provisioning Center, regardless of ownership of property or licensee; and at least 1,000 feet away from K-12 schools and libraries open to the public. These setback measurements are between nearest property lines, regardless of ownership of property or licensee.**
- (k) **State Licensed Adult Use Marihuana Retailers with an approved Adult Use Marihuana Establishment permit pursuant to Ch. 835 and consistent with Chapter 1299 Marihuana Facilities and Establishments when located at least 1,000 feet away from a property containing an Adult Use Marihuana Retailer, an Adult Use Marihuana Microbusiness, and a Medical Marihuana Provisioning Center; and at least 1,000 feet from K-12 schools and libraries open to the public. The setback measurements are between nearest property lines, regardless of ownership of property or licensee.**
- (l) **State Licensed Adult Use Microbusiness with an approved Adult Use Marihuana Establishment permit pursuant to Chapter 835 and consistent with Chapter 1299 Marihuana Facilities and Establishments when meeting the following locational specifications:**
  - (1) The property at which the Microbusiness will be located shall be at least 1,000 feet away from any property containing an Adult Use Marihuana Retailer, an Adult Use Marihuana Microbusiness, and a Medical Marihuana Provisioning Center; setbacks measured between nearest property lines, regardless of ownership of property or licensee; and
  - (2) The property at which the Microbusiness will be located shall be at least 1,000 feet from K-12 schools and libraries open to the public, setbacks measured between nearest property lines, regardless of ownership of property or licensee; and

- (3) The property at which the Microbusiness will be located shall not abut a residential zoning district or a residential use.

#### **1270.04 SITE DEVELOPMENT REQUIREMENTS.**

Developments permitted within the C-6 Major Highway Interchange District shall meet the following minimum site development requirements:

- (a) Minimum Lot Area. The minimum lot area shall be not less than 25,000 square feet, unless otherwise specified.
- (b) Minimum Lot Width. The minimum lot width shall be not less than 150 feet, unless otherwise specified.
- (c) Yards. A yard adjacent to a street right of way shall provide a minimum building setback of thirty-five feet, except that south of 1-94 on lots fronting Beckley Road or Capital Avenue, S.W., such setback shall be a minimum of fifty feet, and the following:
  - (1) Safety strip. A strip of land at least ten feet wide along the street lot line shall be preserved with a berm or permanent natural plantings, neither of which shall exceed three feet in height. This ten-foot wide strip shall be referred to as the safety strip.
  - (2) Rear yard. No rear yard shall be required, but if any lot in this District abuts a residential use or a Residential District, a transition strip of at least fifty feet shall be provided. The inner thirty feet of the transition strip may be used for parking and there shall be erected along the boundary lines of any such lot abutting a Residential District a five-foot high landscaped berm or combination of natural plantings that total not less than eight feet high and act as a year round visual barrier. A masonry wall of at least five feet but not more than eight feet in height will also satisfy this requirement. The fence or wall shall be neat and harmonious in appearance with the character of the immediate residential area and shall be maintained in good condition at all times. The fence or berm shall be considered an integral part of the requirements for the use proposed.
- (d) Compliance Requirements for New Businesses. For those sites that do not currently provide sufficient setbacks to ensure traffic safety along any public right of way, it shall be required that upon a site plan modification or a re-opening of a business closed for more than 120 days, a ten-foot wide safety strip shall be provided along the road frontage. No sign shall be permitted on or above the safety strip.  
(Ord. 36-84. Passed 12-18-84; Ord. 7-87. Passed 6-2-87.)
- (e) Noise. Noise emanating from a use in this District shall not exceed the levels for ordinary conversation or normal traffic noise peaks at the boundaries of the lot. No physical vibration humanly perceptible at or beyond the lot boundaries shall be allowed.
- (f) Signs. Signs shall comply with Chapter 1296.
- (g) Off-Street Parking and Loading. Developments must comply with the off-street parking and loading requirements of Chapter 1284 unless otherwise specified.
- (h) Site Plan Review. Developments must comply with the site plan review requirements of Chapter 1294.

## **CHAPTER 1271 C-7 STREET-LEVEL RETAIL DISTRICT**

- 1271.01 Applicable regulations.
- 1271.02 Purposes.
- 1271.03 Definitions.
- 1271.04 Permitted uses.
- 1271.05 Erection of poles and wires.
- 1271.06 Height, width, lot area, building coverage, sign and site plan review requirements.
- 1271.07 Mixed commercial and residential uses.
- 1271.08 Off-street parking and loading.
- 1271.09 Conflicts with State of local business licensing requirements or regulations.
- 1271.10 (Repealed).
- 1271.11 Prohibited uses.

### ***CROSS REFERENCES***

Zoning and planning in home rule cities - see M.C.L.A. Sec. 117.4i

Authority to zone; Regulation of location of trades, buildings and uses by local authorities - see M.C.L.A. Sec. 125.3201

Uses of land or structures not conforming to ordinances; powers of legislative bodies; acquisition of property - see M.C.L.A. Sec. 125.3208

Commercial businesses - see B.R. & T. Ch. 822

Rental housing - see B.R. & T. Ch. 842

### **1271.01 APPLICABLE REGULATIONS.**

- (a) The regulations set forth in this chapter, or set forth elsewhere in this Zoning Code, when referred to in this chapter, are the district regulations of the C-7 Street-Level Retail District.
  - (b) The restrictions and regulations of Chapter 814 shall be applicable to this chapter.
- (Ord. 25-92. Passed 11-24-92; Ord. 08-2010. Passed 7-6-10.)

### **1271.02 PURPOSES.**

The C-7 Street-Level Retail District is established to revitalize commercial areas which, through business relocation, substantial change in surrounding uses, changes in the market, or a combination thereof, require the orderly placement of business establishments to provide the maximum use of buildings to accommodate and respond to changes in vehicular and pedestrian traffic flow. To permit the full potential of this District, certain uses which would interfere with the general effectiveness of this District have been intentionally excluded, and uses permitted herein are intended to be strictly limited in their definition.

(Ord. 25-92. Passed 11-24-92; Ord. 08-2010. Passed 7-6-10.)

### **1271.03 DEFINITIONS.**

As used in this chapter:

- (a) "Apartment" means a living unit of at least 500 square feet which is intended or designed for use as a residence by a single family and which includes its own kitchen and bath facilities.
- (b) "Art gallery" means a premises used for the display and sale of original works of art.

- (c) "Art studio" means a building used for the production, display and sale of works of art.
- (d) "Banquet and meeting hall" means a premises available to the public for rental for the purpose of holding meetings, banquets and receptions.
- (e) "Box office" means a premises, not necessarily attached to a theater, museum, exhibition hall or athletic facility, used for the sale of tickets for admission to entertainment, including, but not limited to, athletic events, theatrical performances, museum admissions or concerts.
- (e)(1) "Brewpub" means a licensed facility that manufactures and sells at that licensed premises not more than 2,000 barrels of beer/ale per year for consumption on that premises only.
- (f) "Church" means a building that people regularly attend to participate in or hold religious services, meetings or other religious activities of any denomination. The term "church" also includes synagogues, temples and mosques.
- (g) "Collectibles shop" means a business limited to the sale or trade of first-edition hardcover books, board or electronic games, including card games, computer games, role-playing or miniature games, CD's, DVD's, sports trading cards, comic books, stamps, coins, antique jewelry or a combination thereof. The term "collectibles shop" does not include secondhand goods dealers or pawn shops.
- (h) "Exhibition hall" means a premises open to the public for the viewing of temporary exhibits of collections or displays of items relating to, or artifacts of, natural, local, State or national history; the presentation of theatrical performances or musical concerts; or the holding of flea markets, swap meets or other shows involving the sale or trade of publicly displayed items and merchandise.
- (i) "Financial institutions" means banks, savings and loans, credit unions, mortgage or loan companies and stock brokers. The term "financial institutions" does not include pawnbrokers, bail bondsmen or cash advance establishments.
- (j) "Florist shop" means a business whose principal purpose is the display and sale of natural and silk flowers, arrangements of flowers and decorative accessories used in the display of flowers.
- (k) "Interior decorating and design studio" means a business which displays interior decorating and design merchandise, such as furniture, wallpaper, fabric, floor coverings and accessories as samples shown on the premises which individuals may order from catalogues. The term "interior decorating and design studio" does not include the warehousing of interior decorating and design merchandise for on-site retail sale.
- (1) "Microbrewery" means a brewery that produces less than 20,000 barrels of ale/beer per year for on-site consumption, take-out and distribution to wholesalers and/or restaurants, taverns and retail stores, and is open to the general public for sales and tours.
- (m) "Mission" means a facility providing temporary lodging and ancillary services, such as the provision of food, clothing or other services, to alleviate the suffering of indigent, needy, homeless or transient persons.
- (n) "Museum" means a premises used for the storage and display of artifacts, memorabilia and works of art which are open to public viewing.
- (o) "Photocopy service" means a business that reproduces drawings, plans, maps or other documents by means of blueprinting or photocopying.

- (p) "Print shop" means a retail establishment which provides duplicating services using photocopy, blueprint or off-set printing equipment, which may also include the collating of booklets and reports.
  - (q) "Private club" means a premises not open to the public and used for the meeting of a nonprofit organization of persons operated for the promotion and promulgation of common interests. The term "private club" does not include churches and missions.
  - (r) "Professional offices" means, by way of example, but is not limited to, an attorney's offices, an architect's offices, an engineer's offices, insurance offices, an accountant's offices and real estate offices, but not medical, dental or veterinary offices, clinics or laboratories.
  - (s) "Retail sales" means the sale of new, unused goods.
  - (t) "Tailor, dressmaking or millinery shops" means premises used for the custom manufacture of clothing and hats as well as the alteration and repair of clothing and hats.
  - (u) "Visitor information center" means a premises used for the dissemination of cultural, historic or tourist information.
  - (v) "Work of art" means an original creation, such as, but not limited to, oil, acrylic or water color paintings, clay, pottery or papermache sculptures or screened or photographic prints, of such a nature as to be suitable for a juried art exhibition or auction. The term "work of art" does not include objects which are knitted or crocheted, items created by a kit, wooden toys or other similar craft or hobby items made from a pattern.
- (Ord. 25-92. Passed 11-24-92; Ord. 08-2010. Passed 7-6-10.)

#### **1271.04 PERMITTED USES.**

- (a) In a C-7 Street-Level Retail District, a building or premises shall be used only for the following purposes:
  - (1) Retail sales;
  - (2) Art gallery;
  - (3) Museums;
  - (4) Visitor information centers;
  - (5) Beauty and barber shops;
  - (6) Tailor, dressmaking and millinery shops;
  - (7) Financial institutions;
  - (8) Photography studios;
  - (9) Restaurants, including fast food restaurants, but not including drive-in restaurants;
  - (10) Pet shops, but not kennels or veterinary offices;
  - (11) Printing and photocopying shops;
  - (12) Theaters having a minimum of fifty seats;
  - (13) Travel bureaus;
  - (14) Collectible shops;
  - (15) Florist shop;
  - (16) Exhibit hall;
  - (17) Stores for the collection and distribution of laundry and dry cleaning, but not for the actual treatment, cleaning or processing of such articles;
  - (18) Photographic film sales and development shops;
  - (19) Shoe repair/shoe shine shops;
  - (20) News and magazine stands;

- (21) Box offices;  
(Ord. 25-92. Passed 11-24-92.)
- (22) Microbreweries and brewpubs; and  
(Ord. 4-96. Passed 6-4-96.)
- (23) United States Military forces, including the U.S. Army, U.S. Navy, U.S. Air Force, U.S. Marines, U.S. Coast Guard, and National Guard recruiting offices.  
(Ord. 17-07. Passed 11-20-07.)
- (24) Professional offices;
- (25) Artist studios;
- (26) Banquet and meeting halls;
- (27) Private clubs;
- (28) Employment agencies;
- (29) In-door health and fitness facilities;
- (30) Medical or dental, but not veterinary, offices, clinics and laboratories;
- (31) Private trade, vocational, art, business, dance or music schools;
- (32) Recording studios;
- (33) Reading rooms;
- (34) Interior decorating studios;
- (35) Child day-care centers;
- (36) Apartments on the second floor, or higher;
- (37) Small appliance repair shop;
- (38) Video rental stores;
- (39) Dance studios.
- (40) State Licensed Medical Marihuana Provisioning Centers with an approved Medical Marihuana Facilities permit pursuant to Ch. 833 and consistent with Ch. 1299 Medical Marihuana when located at least 1,000 feet away from a property containing a Medical Marihuana Provisioning Center, regardless of ownership of property or license; and at least 1,000 feet away from K-12 schools and libraries open to the public. These setback measurements are between nearest property lines, regardless of ownership of property or licensee.
- (41) State Licensed Adult Use Marihuana Retailers with an approved Adult Use Marihuana Establishment permit pursuant to Ch. 835 and consistent with Chapter 1299 Marihuana Facilities and Establishments when located at least 1,000 feet away from a property containing an Adult Use Marihuana Retailer, an Adult Use Marihuana Microbusiness, and a Medical Marihuana Provisioning Center; and at least 1,000 feet from K-12 schools and libraries open to the public. The setback measurements are between nearest property lines, regardless of ownership of property or licensee.

#### **1271.05 ERECTION OF POLES AND WIRES.**

No person shall erect poles or wires for telephone, telegraph, cable television or power distribution purposes within the boundaries of a C-7 Street-Level Retail District.

(Ord. 25-92. Passed 11-24-92; Ord. 08-2010. Passed 7-6-10.)

#### **1271.06 HEIGHT, WIDTH, LOT AREA, BUILDING COVERAGE, SIGN AND SITE PLAN REVIEW REQUIREMENTS.**

Uses provided for in this chapter are subject to the maximum height, width, lot area, building coverage, sign and site plan review requirements of a C-4 Central Business District.  
(Ord. 25-92. Passed 11-24-92; Ord. 08-2010. Passed 7-6-10.)

**1271.07 MIXED COMMERCIAL AND RESIDENTIAL USES.**

Commercial and residential uses may occupy the same building, provided that the residential use is limited in its entirety to the second level or higher of the building and meets the requirements of the Building and Housing Code and all State building and fire codes.

**1271.08 OFF-STREET PARKING AND LOADING.**

Off-street parking and loading requirements shall be in accordance with Chapter 1284, provided that in the case of mixed uses, the number of parking spaces shall equal the sum of the requirements for each use computed separately.

(Ord. 25-92. Passed 11-24-92; Ord. 08-2010. Passed 7-6-10.)

**1271.09 CONFLICTS WITH STATE OR LOCAL BUSINESS LICENSING REQUIREMENTS OR REGULATIONS.**

Nothing in this chapter is intended or should be construed as a waiver of any State or local business licensing requirement or regulation.

(Ord. 25-92. Passed 11-24-92; Ord. 08-2010. Passed 7-6-10.)

**1271.10 (REPEALED)**

*Editor's Note: Section 1271.10, as adopted by Ord. 25-92, passed 11-24-92 was repealed by Ord. 08-2010, passed 7-6-10.*

**1271.11 PROHIBITED USES.**

The following uses are prohibited in a C-7 Street-Level Retail District:

- (a) Adult businesses regulated by Chapter 1295;
- (b) Any form of transient dwelling, including, but not limited to, rooming houses, boarding houses, tourist homes, motels or hotels.
- (c) Retail sales of motor vehicles, motorcycles, recreational vehicles or motor homes, or the retail sale of motor vehicle or motorcycle parts.
- (d) Retail sales of large household appliances, such as washing machines, dryers, stoves, refrigerators, freezers or hot-water heaters.

(Ord. 25-92. Passed 11-24-92; Ord. 08-2010. Passed 7-6-10.)

## **CHAPTER 1272 I-1 LIGHT INDUSTRIAL DISTRICT**

1272.01 Applicable regulations.

1272.02 Purpose.

1272.03 Permitted uses.

1272.04 Height, yard, lot area, building coverage, sign, parking and loading and site plan review requirements.

### ***CROSS REFERENCES***

Zoning and planning in home rule cities - see M.C.L.A. Sec. 117.4i

Regulation of location of trades, buildings and uses by local authorities - see M.C.L.A. Sec. 125.581

Regulation of buildings; authority to zone - see M.C.L.A. Sec. 125.582

Regulation of congested areas - see M.C.L.A. Sec. 125.583

Uses of land or structures not conforming to ordinances; powers of legislative bodies; acquisition of property - see M.C.L.A. Sec. 125.583a

Yard exceptions within industrial districts - see P. & Z. 1278.05

Signs in I Districts - see P. & Z. 1296.39, 1296.40

Rental housing - see B.R. & T. Ch. 842

### **1272.01 APPLICABLE REGULATIONS.**

The regulations set forth in this chapter, or set forth elsewhere in this Zoning Code, when referred to in this chapter, are the district regulations of the I-1 Light Industrial District. (Ord. 36-84. Passed 12-18-84.)

### **1272.02 PURPOSE.**

The I-1 Light Industrial District is intended to accommodate those industrial uses that generate a minimum of noise, glare, odors, dust, vibration, air and water pollution, fire and safety hazards, the emission of any potentially harmful or obnoxious matter or radiation or any other nuisance characteristics. It is established as one in which the principal use of the land is for industrial activities wholly compatible with all other uses permitted in this District, commercial establishments not engaging in retail sales and service establishments which, if doing retail business, are of the type not generally requiring the customer to call at the place of business. (Ord. 36-84. Passed 12-18-84.)

### **1272.03 PERMITTED USES.**

In an I-1 Light Industrial District, a building or premises shall be used only for the following purposes:

- (a) Any use permitted in the C-4 Central Business District, except that after the passage of this Zoning Code (Ordinance 36-84, passed December 18, 1984), no new dwelling may be erected and no existing structure may be converted for residential purposes in the I-1 District;
- (b) Bottling works;
- (c) Carting, express or hauling yards;
- (d) Contractor's yards;
- (e) Coal, coke or wood yards;



- (f) Essential service structures;
- (g) Assembly and manufacture, from prefabricated parts, of household appliances, electronic products and similar products or the processing or assembly of parts for production of finished equipment;
- (h) Lumber yards or millwork plants;
- (i) Petroleum storage, but only after the location and treatment of the premises have been approved by the Fire Chief and the State Fire Marshal;
- (j) Fruit and food processing and storage;
- (k) Sporting goods and athletic equipment manufacture;
- (l) Truck or transfer terminal or freight houses;
- (m) Utilities;
- (n) Warehousing and wholesale establishments;
- (o) Industrial manufacturing plants where the process of manufacturing or the treatment of materials is such that only a nominal amount of dust, gas, odor, smoke or noise is emitted;
- (p) Storage yards for motor vehicles for salvage, including the removal of parts therefrom. Such use shall be screened from exterior view by a solid, well maintained fence which is eight feet in height, and vehicles shall not be stored in a manner exceeding the height of the fence. Such fence shall be setback a minimum of fifteen feet from all property lines and the yard shall be secured during nonoperational hours.
- (q) Normal accessory uses and structures.
- (r) State Licensed Medical Marihuana Growers, Processors, Secure Transporters, and Safety Compliance Facilities with an approved Medical Marihuana Facilities permit pursuant to Ch. 833 and consistent with Ch. 1299 Medical Marihuana where located at least 1,000 feet away from properties, as measured between nearest property lines, containing any of the following uses:
  - 1) Religious assembly uses;
  - 2) Private or public schools;
  - 3) Public parks;
  - 4) Libraries open to the public; and
  - 5) Residential ('R') zoned property.
- (s) State Licensed Medical Marihuana Provisioning Center located on the same property with an approved State Licensed Medical Marihuana Grower and Processor facilities (co-location); and is located at least 1,000 feet away from K-12 schools and libraries open to the public. This setback measurement is between nearest property lines.
- (t) State Licensed Medical Marihuana Provisioning Centers located in a building where a retail use was in operation at the date of this ordinance adoption and is located at least 1,000 feet away from K-12 schools and libraries open to the public. This setback measurement is between nearest property lines.
- (u) State Licensed Adult Use Growers, Processors, Secure Transporters and Safety Compliance Establishments with an approved Adult Use Marihuana Establishment permit pursuant to Ch.835 and consistent with Ch. 1299 Marihuana Facilities and Establishments when located at least 1,000 feet away from properties, as measured between nearest property lines, containing any of the following uses:
  - 1) Religious assembly uses;
  - 2) Private or public schools;
  - 3) Public parks;

- 4) Libraries open to the public;
- 6) Any Residential ('R') zoned property.
- (v) State Licensed Adult Use Marihuana Retailers with an approved Adult Use Marihuana Establishment permit pursuant to Ch. 835 and consistent with Chapter 1299 Marihuana Facilities and Establishments when collocated with a Medical Marihuana Grower and Processor; located at least 1,000 feet away from a property containing an Adult Use Marihuana Retailer, an Adult Use Marihuana Microbusiness, and a Medical Marihuana Provisioning Center; and at least 1,000 feet from K-12 schools and libraries open to the public. The setback measurements are between nearest property lines, regardless of ownership of property or licensee.
  - 1) This subsection only applies to those active Medical Marihuana Provisioning Center Facility Applications submitted prior to the date of this ordinance adoption.

#### **1272.04 HEIGHT, YARD, LOT AREA, BUILDING COVERAGE, SIGN AND PARKING AND LOADING AND SITE PLAN REVIEW REQUIREMENTS.**

The uses provided for in Section 1272.03 are subject to the following requirements:

- (a) Maximum height, as required by Chapter 1276;
- (b) Yards, as required by Chapter 1278;
- (c) Lot area, as required by Chapter 1282;
- (d) Building coverage, as required by Chapter 1280;
- (e) Signs, as required by Chapter 1296;
- (f) Off -street parking and loading, as required by Chapter 1284; and
- (g) Site plan review, as required by Chapter 1294.

## CHAPTER 1274 I-2 HEAVY INDUSTRIAL DISTRICT

- 1274.01 Applicable regulations.
- 1274.02 Dwellings prohibited.
- 1274.03 Permitted uses.
- 1274.04 Special requirements.
- 1274.05 Height, yard, lot area, building coverage, sign, parking and loading and site plan review requirements.

### ***CROSS REFERENCES***

Zoning and planning in home rule cities - see M.C.L.A. Sec. 117.4i  
Regulation of location of trades, buildings and uses by local authorities - see M.C.L.A. Sec. 125.581  
Regulation of buildings; authority to zone - see M.C.L.A. Sec. 125.582  
Regulation of congested areas - see M.C.L.A. Sec. 125.583  
Uses of land or structures not conforming to ordinances; powers of legislative bodies; acquisition of property - see M.C.L.A. Sec. 125.583a  
Yard exceptions within industrial districts - see P. & Z. 1278.05  
Signs in I Districts - see P. & Z. 1296.39, 1296.40  
Rental housing - see B.R. & T. Ch. 842

### **1274.01 APPLICABLE REGULATIONS.**

The regulations set forth in this chapter, or set forth elsewhere in this Zoning Code, when referred to in this chapter, are the district regulations of the I-2 Heavy Industrial District. (Ord. 36-84. Passed 12-18-84.)

### **1274.02 DWELLINGS PROHIBITED.**

In an I-2 Heavy Industrial District, no building shall be converted or erected for dwelling purposes. (Ord. 36-84. Passed 12-18-84.)

### **1274.03 PERMITTED USES.**

In an I-2 Heavy Industrial District any building or premises may be used for any purpose not in conflict with any of the provisions of these Codified Ordinances regulating nuisances, this includes the following:

- (a) State Licensed Medical Marihuana Growers, Processors, Secure Transporters, and Safety Compliance Facilities having an approved Medical Marihuana Facilities permit pursuant to Ch. 833 and consistent with Ch. 1299 Medical Marihuana where located at least 1,000 feet away from properties, measured between nearest property lines, containing any of the following uses:
  - 1) Religious assembly uses;
  - 2) Private or public schools;
  - 3) Public parks;
  - 4) Libraries open to the public; and

5) Residential ('R') zoned property.

(b) State Licensed Medical Marihuana Provisioning Center located on the same property with an approved State Licensed Medical Marihuana Grower and Processor facilities (co-location); and is located at least 1,000 feet away from K-12 schools and libraries open to the public. This setback measurement is between nearest property lines.

(c) State Licensed Medical Marihuana Provisioning Centers located in a building where a retail use was in operation at the date of this ordinance adoption and is located at least 1,000 feet away from K-12 schools and libraries open to the public. This setback measurement is between nearest property lines.

(d) State Licensed Adult Use Growers, Processors, Secure Transporters and Safety Compliance Establishments with an approved Adult Use Marihuana Establishment permit pursuant to Ch. 835 and consistent with Ch. 1299 Marihuana Facilities and Establishments when located at least 1,000 feet away from properties, as measured between nearest property lines, containing any of the following uses:

- 1) Religious assembly uses;
- 2) Private or public schools;
- 3) Public parks;
- 4) Libraries open to the public;
- 5) Any Residential ('R') zoned property.

(e) State Licensed Adult Use Marihuana Retailers with an approved Adult Use Marihuana Establishment permit pursuant to Ch. 835 and consistent with Chapter 1299 Marihuana Facilities and Establishments when collocated with a Medical Marihuana Grower and Processor; located at least 1,000 feet away from a property containing an Adult Use Marihuana Retailer, an Adult Use Marihuana Microbusiness, and a Medical Marihuana Provisioning Center; and at least 1,000 feet from K-12 schools and libraries open to the public. The setback measurements are between nearest property lines, regardless of ownership of property or licensee.

1) This subsection only applies to those active Medical Marihuana Provisioning Center Facility Applications submitted prior to the date of this ordinance adoption.

#### **1274.04 SPECIAL REQUIREMENTS.**

No building or occupancy permit shall be issued for any of the following uses until the location of such use is approved by the City Commission after a report regarding the effect of such use upon the safety and welfare of adjacent developments and its relationship to streets, sewers and other utilities is made by the Fire Chief, the City Engineer and the State Fire Marshal:

- (a) Acid manufacture;
- (b) Cement, lime or gypsum manufacture;
- (c) Distillation of bones or rendering plants;
- (d) Fertilizer manufacture;
- (e) Gas manufacture;
- (f) Garbage, offal or dead animal's reduction, dumping or incinerating;

- (g) Smelting plants;
  - (h) Stockyards or slaughter of animals;
  - (i) Distilleries; and
  - (j) Wholesale storage of gasoline or other similar fuels or chemicals.
- (Ord. 36-84. Passed 12-18-84.)

**1274.05 HEIGHT, YARD, LOT AREA, BUILDING COVERAGE, SIGN, PARKING AND LOADING AND SITE PLAN REVIEW REQUIREMENTS.**

The uses provided for in this chapter are subject to the following requirements:

- (a) Maximum height, as required by Chapter 1276;
- (b) Yards, as required by Chapter 1278;
- (c) Lot area, as required by Chapter 1282;
- (d) Building coverage, as required by Chapter 1280;
- (e) Signs, as required by Chapter 1296;
- (f) Off-street parking and loading, as required by Chapter 1284; and
- (g) Site plan review, as required by Chapter 1294.

## **CHAPTER 1299 MARIHUANA FACILITIES AND ESTABLISHMENTS**

1299.01 Purpose

1299.02 Authority

1299.03 License, Permits, Application, and Fee

1299.04 Non-Conforming Uses

1299.05 Locational Standards

1299.06 Development and Operational Standards

### **1299.01 PURPOSE**

The purpose of this chapter is to implement the provisions of State legislation PA 283 of 2008 ‘Medical Marihuana Act’ (MMA), PAs 281, 282, & 282 of 2016 ‘Medical Marihuana Facilities Licensing Act’ (MMFLA) and subsequent amendments, and the Michigan Regulation and Taxation of Marihuana Act of 2018 (MRTMA) for establishing local zoning authority for the permitting of adult use marihuana establishments and medical marihuana facilities. Further, the purpose of this chapter also provides:

- (a) A process for the City to legally facilitate the development of adult use marihuana establishments and medical marihuana facilities which are otherwise illegal under federal law.
- (b) A procedure for growing, processing, testing, transporting, and selling medical marihuana for qualified persons and selling adult use marihuana as permitted under the MRTMA.
- (c) Zoning authority for the protection and preservation of public safety, welfare, and property value; and ensuring consistency with the future land use map of the Master Plan.
- (d) A licensing and taxing authority to the City to defray costs to additional public safety, administrative, and enforcement with the result of facilitating development of adult use marihuana establishments and medical marihuana facilities.
- (e) Additional economic industry and benefit to the community.

### **1299.02 AUTHORITY**

With the adoption of PA 283 of 2008 and PAs 281, 282, & 282 of 2016 and subsequent amendments and the Michigan Regulation and Taxation of Marihuana Act of 2018, the City of Battle Creek has legislative authority to establish zoning regulations, application processes and associated fees, and enforcement abilities for marihuana development without penalty consistent with the state laws.

### **1299.03 LICENSE AND PERMIT REQUIRED; APPLICATION; FEE;**

- (a) Licenses Required. No person or entity shall operate an adult use marihuana establishment or medical marihuana facility without receiving the following licenses:
  - (1) An approved operating license from the State;
  - (2) An approved permit from the City pursuant to Chapter 833 and/or Chapter 835; and

- (b) Permit Type. No person or entity shall operate an adult use marihuana establishment or medical marihuana facility without receiving the following permits where required:
- (1) Approved Building permit & Occupancy Permit. All marihuana establishments and facilities shall require an approved Building permit showing compliance with applicable zoning and building codes. A Certificate of Occupancy shall be issued once all applicable inspections are show satisfactory compliance with all zoning and building codes.
  - (2) Approved Site Plan Application. Certain marihuana establishments and facilities shall require gaining an approved Site Plan Application pursuant to Chapter 1294 Site Plan Review.
  - (3) Approved Special Use Permit, if required. Certain medical marihuana facilities shall require an approved Special Use Permit pursuant to Chapter 1290 Special Land Uses.

#### **1299.04 NON-CONFORMING USES**

- (a) Medical marihuana dispensaries and growing operations which may have been established under the auspices of the 2008 MMA but have not gained approved permits from the City shall not be considered legally non-conforming. Owners of such dispensaries or growing operations shall cease operation, or if applicable, obtain required permit pursuant to subsection Ch. 1299.03.
- (b) Medical marihuana dispensaries and growing operations which may have been established under the auspices of the 2008 MMA and have approved permits from the City are considered legally non-conforming and may continue operating pursuant to Chapter 1288 Nonconforming Uses and Structures.

#### **1299.05 LOCATIONAL STANDARDS**

- (a) Pursuant to the 2016 MMFLA, 2018 MRTMA, and subsection 1299.03, all types of state licensed marihuana establishments and facilities are allowed in zoning districts established by this chapter and within specific zoning districts provided in this zoning ordinance.
- (b) The official updated 'Marihuana Maps' of the City of Battle Creek will be maintained by the City's Planning Division.
- (c) Co-location of Licenses. Where State Licensed Medical Marihuana Grower, Processor, and Provisioning Center are co-located on a single property, the usable floor area of the Provisioning Center shall not exceed 10% of the gross square footage of the overall combined areas of the growing and provisioning areas.
- (d) Only one State Licensed Provisioning Center, Microbusiness, or Retailer shall be allowed on a property within the area defined by property lines except for colocations at same locations by the same licensee holder.

#### **1299.06 DEVELOPMENT AND OPERATIONAL STANDARDS**

The following regulations are applicable to all State Licensed marihuana establishments and facilities.

- (a) Marihuana Location. Except when being transporting by State Licensed Security Transporter, all marihuana shall be located entirely inside a building having permanent foundation, walls, and roof.

- (1) Notwithstanding subsection (a), a roof on grow establishments or facilities may consist of a sturdy transparent material, such as glass, to allow sunlight into the growing areas of the building. If such transparent material is utilized, it must be fully covered with a non-transparent material between dusk and dawn that prevents interior lighting from escaping through the roof.
  - (2) Walls enclosing Marihuana Growing establishments or facilities shall be constructed of a structurally-supportive load bearing brick or masonry construction from grade to eight feet in height.
- (b) Signage. Notwithstanding Chapter 1296 Signs, only one sign per street frontage shall be permitted for any state licensed marihuana establishment or facility. Neon lighted signs are prohibited.
  - (c) Fence. Use of barb wire outside of the Industrial districts is prohibited.
  - (d) Window glass on ground floor levels must be transparent and free from film or other materials that block visibility. Interior shades, curtains, etc. are permitted.